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1904



New York State Laws & Statutes, etc.

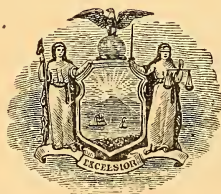
THE
LAWS OF NEW YORK

RELATING TO

THE STATE PRISONS,

INCLUDING

THE PROVISIONS OF THE CONSTITUTION AND REVISED
STATUTES APPLICABLE THERETO, AND MIS-
CELLANEOUS ACTS OF THE LEGISLA-
TURE, AS AMENDED TO AND IN
FORCE JUNE 1, 1904.



COMPILED BY
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UNDER THE DIRECTION OF
CORNELIUS V. COLLINS,
SUPERINTENDENT OF STATE PRISONS.

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CONSTITUTION OF STATE OF NEW YORK.

PROVISIONS APPLICABLE TO STATE PRISONS.

ARTICLE III., SECTION 29.—OCCUPATION AND EMPLOYMENT OF CONVICTS.

The Legislature shall by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

NOTE.—Sec. 97 post page 33. Chap. 737 Laws 1894 “an act to regulate the employment of prison labor in the manufacture of brooms and brushes made of broom corn is made obsolete by this section of the constitution and sec. 97 of the general prison law.

ART. V., SEC. 4.—SUPERINTENDENT OF PRISONS.

A Superintendent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the Superintendent.

The Comptroller shall appoint the clerks of the prisons. The Superintendent shall have all the powers and perform all the duties not inconsistent herewith, which were formerly had and performed by the Inspectors of State Prisons. The Governor may remove the Superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defense.

ART. VIII., SECS. 11, 12 AND 13. —STATE COMMISSION
OF PRISONS.

§ 11. The Legislature shall provide for a State Board of Charities, which shall visit and inspect all institutions, whether State, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions hereinafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a State Commission in Lunacy, which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a State Commission of Prisons which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

§ 12. The members of the said Board and of the said Commissions shall be appointed by the Governor, by and with the advice and consent of the Senate; and any member may be removed from office by the Governor for cause, an opportunity having been given him to be heard in his defense.

§ 13. Existing laws relating to institutions referred to in the foregoing sections and to their supervision and inspection, in so far as such laws are not inconsistent with the provisions of the Constitution, shall remain in force until amended or repealed by the Legislature. The visitation and inspection herein provided for, shall not be exclusive of other visitation and inspection now authorized by law.

NOTE.—See “act to provide for the appointment of a State Commission of Prisons, and defining its duties and powers” post p. 82.

REVISED STATUTES
RELATING TO
STATE PRISONS.

Chapter 382, Laws of 1889.

AN ACT TO AMEND TITLE TWO OF CHAPTER THREE OF PART
FOUR OF THE REVISED STATUTES, RELATING TO STATE PRIS-
ONS AND FOR OTHER PURPOSES CONNECTED THEREWITH.

§ 1. Title two of chapter three of part four of the Revised Statutes as amended by chapter four hundred and sixty of the laws of one thousand eight hundred and forty-seven, and by chapter two hundred and ninety-four of the laws of one thousand eight hundred and forty-eight, and by chapters fifty-eight and two hundred and forty of the laws of one thousand eight hundred and fifty-four, and by chapters four hundred and fifty-six and five hundred and fifty-two of the laws of one thousand eight hundred and fifty-five, and by chapter ninety-four of the laws of one thousand eight hundred and fifty-seven, and by chapter three hundred and ninety-nine of the laws of one thousand eight hundred and sixty, and by chapter four hundred and fifty-one of the laws of one thousand eight hundred and seventy-four, and by chapter four hundred and forty of the laws of one thousand eight hundred and eighty-eight, is hereby further amended so as to read as follows:

TITLE II.

OF THE STATE PRISONS.

ARTICLE I. Of the government and maintenance of State Prisons, the officers connected therewith, their powers, duties and compensation.

ARTICLE II. Of the disposition, discipline and instruction of prisoners.

ARTICLE III. Of the labor of prisoners.

ARTICLE I.

OF THE GOVERNMENT AND MAINTENANCE OF STATE PRISONS,
THE OFFICERS CONNECTED THEREWITH, THEIR POWERS,
DUTIES AND COMPENSATION.

- Section 29. Names and locations of State prisons.
 30. Officers and employees of prisons.
 31. Salary and expenses of Superintendent.
 32. Salary and expenses of warden.
 33. Physicians, clerks and chaplains; salaries of.
 34. Compensation of other officers.
 35. Salaries to be paid monthly.
 36. Oath of office and bond of Superintendent.
 37. Oaths of other officers.
 38. Bond of agent and warden.
 39. Bond of other officers.
 40. Office, powers and duties of Superintendent.
 41. Annual report of Superintendent.
 42. Powers and duties of agent and warden.
 43. Daily journal.
 44. Account books.
 45. Deposit of convicts' deposits and earnings.
 46. Estimate of expenses; revision by Comptroller.
 47. Monthly financial statement of warden to Comptroller.
 48. Monthly reports as to inmates.
 49. Annual financial report.
 50. Annual inventory.
 51. Warden to control fiscal transactions—recovery of debts to prison.
 52. Warden to purchase supplies.
 53. Bills and receipts for supplies and services.
 54. Convicts' money and other property; what to be furnished them on their release.
 55. Neglect of duty by agent and warden; punishable.
 56. General duties of clerk.
 57. Duties of assistant clerk, also of assistant foreman of construction at Clinton Prison.
 58. Duties of physician.
 59. Duties of chaplain.
 60. Duties of principal keeper.
 61. Duties of store-keeper.
 62. Duties of kitchen-keeper.
 63. Notes, drafts and evidences of debt not to be given.
 65. Certain officers to administer oaths.
 66. Clinton Prison water works.
 67. Lands retained for use of Clinton Prison.
 68. Sing Sing Prison farm.

NAMES AND LOCATIONS OF STATE PRISONS.— § 29. There shall continue to be maintained for the security and reformation of convicts in this State, three State Prisons; one at Sing Sing, in Westchester County; one at Auburn, in Cayuga County; and one at Dannemora, in Clinton County, which prisons shall respectively be denominated the Sing Sing Prison, the Auburn Prison and the Clinton Prison.

NOTE.—State Prison for Women, at Auburn. Laws 1893, ch. 306, post p.44
 Matteawan State Hospital for Insane Criminals. Laws 1893, ch. 81, post p.54.
 Dannemora Hospital for Insane Criminals. Laws 1899, ch. 520, post p.60.

OFFICERS AND EMPLOYEES OF PRISONS.—§ 30. The Superintendent of State Prisons shall appoint the agent and warden, physician, and chaplain of each of the said prisons, as provided in the Constitution; and he may remove them from office whenever in his judgment the public interests shall so require. He shall designate such number of guards, teachers and other employees at each of said prisons as he may deem necessary for the safe-keeping and improvement of the prisoners or for the maintenance of discipline, and he shall also designate which of them shall reside at the prison. But the number of guards shall not exceed the proportion of one guard to fourteen prisoners at each of said prisons.

1. The Comptroller shall appoint a clerk of each of said prisons as provided by the Constitution, and is authorized to appoint an assistant clerk of each of said prisons whenever in his judgment the public interests shall so require.

2. The agent and warden of each of said prisons shall appoint, subject to the approval of the Superintendent of State Prisons, a principal-keeper, a store-keeper, a kitchen-keeper, a hall-keeper, a yard-keeper, a sergeant of the guard, and so many other keepers, guards, teachers and employees of such prison as shall be designated by the Superintendent of State Prisons as aforesaid, and such agent and warden shall have the power to remove such subordinate officers and employees so appointed by him.

The People ex. rel. John J. Griffin, Appellant, vs. Austin Lathrop, et al., Respondents, 142 N. Y. p. 113.

The position of keeper was abolished by the amendment of 1904 to § 34 and such officers are classified as guards. See post page 10.

3. No appointment shall be made in any of the State prisons of this State on the grounds of political partisanship; but honesty, capacity and adaptation shall constitute the rule for appointments, and any violation of this rule shall be sufficient cause for the removal from office of the officer committing such violation. No person under twenty-one years of age shall be appointed to or hold any office at any State prison, nor shall any subordinate officer be appointed at any of said prisons by the agent and warden, unless such subordinate officer is a citizen of this State.

NOTE.—Superintendent of State Prisons, see Const., art. V, § 4.

POWER OF REMOVAL.—Power of appointment implies power of removal. People ex rel. Griffin vs. Lathrop, 142 N. Y. p. 113.

SALARY AND EXPENSES OF SUPERINTENDENT.—§ 31. The Superintendent of State Prisons shall receive an annual salary of six thousand dollars, payable monthly by the Treasurer on the warrant of the Comptroller, and in addition thereto, all reasonable and necessary traveling expenses by him actually incurred and paid in the discharge of his official duties, not exceeding the sum of five hundred dollars per annum, and a further sum

of four thousand nine hundred and fifty dollars per annum, or so much thereof as may be necessary for clerk hire, copying and messenger, postage, stationery and other incidental expenses, of all which expenses he shall keep an account by items and verify the same by his oath to be filed with the Comptroller.

SALARY AND EXPENSES OF WARDEN.— § 32. The agent and warden of each of said prisons shall receive an annual salary of three thousand five hundred dollars, and in addition thereto he shall be allowed rations from the prison stores for himself and family. The agent and warden of each of said prisons shall reside in the house connected therewith. The house for the agent and warden shall be provided with household furniture, fuel and lights for him and his family in addition to his salary, and also in addition thereto he shall be entitled to the services of such prisoners as may be reasonably necessary for household service. The Comptroller is hereby authorized to audit and allow from time to time all necessary expenses and subsistence of the agent and warden, when necessarily traveling on official business, or when the attendance of such agent and warden is required at the seat of government, the necessity of such traveling and attendance to be decided by the Comptroller, and the accounts therefor when so audited to be paid by the Treasurer on the warrant of the Comptroller.

PHYSICIANS, CLERKS AND CHAPLAINS; SALARIES OF.— § 33. The physician, clerk and chaplain of each of said prisons shall receive an annual salary of two thousand dollars; each assistant clerk of said prisons shall receive such annual salary as shall be fixed by the Comptroller, not exceeding one thousand five hundred dollars. They shall keep their offices at their respective prisons, and they shall be furnished with fuel and lights for their offices.

COMPENSATION OF OTHER OFFICERS.— § 34. The Superintendent of State Prisons shall, from time to time, prescribe the compensation of the other officers of said prisons, but the compensation so fixed and prescribed for the following officers in each of such prisons shall not in any case exceed the rate of an annual salary, as follows: To the principal keeper, two thousand dollars; to the kitchen-keeper, store-keeper, hall-keeper and yard-keeper, each twelve hundred dollars; to the sergeant of guard, nine hundred dollars; to the State detective at Sing Sing Prison eighteen hundred dollars. The position of keeper in the several State prisons is hereby abolished and officers heretofore designated as keepers shall hereafter be classified as guards. The several guards shall be paid only for services actually rendered, and their annual compensation shall be subject to pro rata deduction for time not served. The compensation of guards hereafter appointed shall be as follows: For the first year's service, six hundred and sixty dollars; for the second year's service, seven hundred and forty dollars; for the third

year's service, eight hundred and twenty dollars; for the fourth year's service, and thereafter, nine hundred dollars. The annual compensation of guards in service at the time this act takes effect shall be, for services hereafter rendered, as follows: To those serving their first year as prison officers, seven hundred and eighty dollars; to those serving their second year as prison officers, eight hundred and twenty dollars; to those serving their third year as prison officers, eight hundred and sixty dollars; to those who have served three or more years as prison officers, nine hundred dollars. (*As amended by Chap. 730, L. 1895, and by Chap. 709, L. 1904.*)

SALARIES TO BE PAID MONTHLY.— § 35. The salaries of the officers in the four last preceding sections specified shall be payable monthly at the end of each month. None of such officers mentioned shall receive any perquisites or emoluments for his services other than the compensation provided therefor by law.

NOTE.—See Sec. 48 Penal Code, on the subject of emoluments & c.

OATH OF OFFICE AND BOND OF SUPERINTENDENT.— § 36. Within ten days from the time of notice of his appointment, the Superintendent of State Prisons shall subscribe and take the oath of office prescribed by the Constitution and file the same in the office of the Secretary of State, and shall be in all respects subject to the provisions of the sixth title of chapter five of the first part of the Revised Statutes, as far as the same may be applicable, and within such ten days he shall give to the people of the State of New York a bond in the penal sum of twenty-five thousand dollars, with two good sureties to be approved by the Comptroller, conditioned for the faithful discharge of the duties of the office.

NOTE.—Constitutional oath of office, Const. art. XIII § 1. Official oaths, Public Officers' Law § 10. Official undertakings, Id., §§ 11, 12. Neglect to file same, Id., §§ 13, 20. Subd. 7.

OATHS OF OTHER OFFICERS.— § 37. Each of the officers of said prisons shall, before entering on the duties of his office, take and subscribe the oath of office prescribed by the Constitution of this State, which oath may be taken and subscribed before any officer authorized by law to administer an oath. The said oath shall be filed in the office of the Comptroller.

NOTE.—See note to preceding section.

BOND OF AGENT AND WARDEN.— § 38. Each agent and warden of a State prison and each other officer or person, when required to perform the duties of an agent and warden, before entering on the duties of his office, shall execute a bond to the people of this State with sufficient sureties, to be approved by the Superintendent of State Prisons and the Comptroller, in the penal sum of fifty thousand dollars, conditioned for the honest and faithful performance of his duties, and accounting for all moneys received by him as such agent and warden according to law, which bond when executed and approved shall be filed in

the office of the Comptroller of this State. Said Comptroller may, at any time require such agent and warden to execute a new bond as such, with new sureties, in the same form and with the same conditions, to be approved and filed as aforesaid.

NOTE.—See note to § 36 above.

BOND OF OTHER OFFICERS.— § 39. The clerk, principal keeper, store-keeper, kitchen-keeper, hall-keeper and yard-keeper of each of said prisons, before entering on the duties of his office shall each execute and file in the office of the Comptroller of the State, a bond to the people of this State, with sufficient sureties to be approved by the Superintendent of State Prisons, in the penal sum of five thousand dollars, conditioned for the faithful performance of his duties according to law.

NOTE.—See note to § 36 above.

OFFICE, POWERS AND DUTIES OF SUPERINTENDENT.— § 40. The Superintendent of State Prisons shall have his office in the City of Albany. He shall have the superintendence, management and control of the State prisons and of the convicts therein, and of all matters relating to the government, discipline, police, contracts and fiscal concerns thereof. He shall have power and it shall be his duty to inquire into all matters connected with said prisons. He shall make such rules and regulations, not in conflict with the statutes of this State, for the government of the officers, keepers, guards and employees of the prisons, except the clerks and assistant clerks, who shall be subject to such rules and regulations as shall be prescribed by the Comptroller, and in regard to the duties to be performed by them, and for the government and discipline of each prison, as he may deem proper, and shall cause such rules and regulations to be recorded by the clerk of the prison, and a printed copy thereof to be furnished to each officer of the prison on his appointment. He shall also prescribe a system of accounts and records to be kept at each prison, which system shall be uniform at all of said prisons, and he may also make rules and regulations for a record of photographs and other means of identifying each convict received into said prisons. The Superintendent of State Prisons may delegate to his clerk authority to certify, in the absence of the Superintendent, estimates to the Comptroller, to sign orders for the transfer of convicts, and to sign orders for the discharge of insane criminals, whose term of imprisonment has expired. The Superintendent of State Prisons may require reports from the agent and warden or other officers of the prison in relation to their conduct as such officers, and shall have power to inquire into any improper conduct which may be alleged to have been committed by the agent and warden or other officer of either of the said prisons, and for that purpose to issue subpoenas to compel the attendance of witnesses, and the production before him of books writings and papers in the same manner and with the like effect and subject to the same penalties for disobedience

as in cases of trials before justices of the peace, and to examine in person or by attorney all persons who may be brought before him as such witnesses.

NOTE.—Superintendent not to be interested in prison contracts or purchases. Penal Code § 48b. post.

ANNUAL REPORT OF SUPERINTENDENT.— § 41. It shall be the duty of the Superintendent of State Prisons on or before the tenth day of January in each year to report to the Legislature in writing the condition of each of the prisons for the year ending with the last day of the previous September, specifying the number of convicts confined during such year, and for what offences, the number transferred from any prison and the reason therefore in each case, the moral, intellectual, and physical condition of the prisoners and how employed, the amount of money expended during such year and how, in detail, the amount of money earned during such year and how, in detail, the amount paid into the treasury during such year, and such other matters as may seem pertinent and proper in the judgment of the Superintendent.

NOTE.—Reports of Superintendent may be printed in State Prisons. Ch. 645, L. 1898, post p. 69.

POWERS AND DUTIES OF AGENT AND WARDEN.— § 42. The agent and warden of each of said prisons shall attend regularly at such prison, and exercise a general supervision over its government, discipline and police, and attend to the fiscal and business concerns of the prison, and conform to and enforce the rules and regulations of the Superintendent of State Prisons in relation thereto. He shall give the necessary directions to the subordinate officers and employees of such prison, and shall examine whether they have been careful and diligent in the discharge of their several duties, shall examine diligently into the state of the prison, and into the health, condition and safe-keeping of the prisoners, and inquire into the justice of any complaints made by the prisoners relative to their provisions, clothing and treatment by such subordinate officers and employees. He may make such general orders or rules for government of such subordinate officers and employees of the prison, not in conflict with the statutes of the State or the rules and regulations of the Superintendent of State Prisons, as he may deem proper, which rules and orders shall be entered in a book provided by the agent and warden for that purpose, and copies thereof shall be printed, and each of said subordinate officers and employees shall be furnished with a printed copy thereof upon his appointment.

NOTE.—Agent and warden not to be interested in prison contracts or purchases. Penal Code § 48b. post.

DAILY JOURNAL.— § 43. The agent and warden of each of said prisons shall cause to be kept a daily journal of the proceedings of the prison, in which shall be entered a note of every

infraction of the rules and regulations of the prison by any officer, which shall have come to his knowledge, and of every punishment inflicted on a prisoner, the nature and the amount thereof and by whom it was inflicted, and also a memorandum of every well-founded complaint made by any convict of bad or insufficient food, want of clothing, or cruel or unjust treatment by a keeper; such journal shall be kept open at all times to the examination of the Superintendent of State Prisons.

NOTE.—The position of keeper was abolished by the amendment of 1904 to § 34 and such officers are now classified as guards.

ACCOUNT BOOKS.— § 44. The agent and warden of each of said prisons shall cause to be kept regular books of entry, in which all his accounts and transactions shall be entered. Such books shall contain a regular and correct account of all moneys received by such agent and warden from any source whatever, by virtue of his office, including all moneys taken or received from convicts, or as the proceeds of property taken from them, and of all sums paid by him by virtue of his office, and the persons to whom, and purposes for which the same were paid. Such books and the accounts entered therein shall be open for the examination of the Superintendent of State Prisons or the Comptroller or of any person authorized by any of them.

DEPOSIT OF CONVICTS' DEPOSITS AND EARNINGS.— § 45. The agent and warden of each of said prisons shall deposit at least once in each week to his credit as agent and warden, in such bank or banks as may be designated by the Comptroller, all the moneys received by him as such agent and warden, as convict deposits and miscellaneous earnings, and send to the Comptroller, and also to the Superintendent of State Prisons, weekly, a statement showing the amount so received and deposited, and when, from whom, and for what received, and the days on which such deposits were made. Such statement of deposits shall be certified by the proper officer of the bank receiving such deposit or deposits. The agent and warden shall also verify by his affidavit that the sum so deposited is all the money received by him from whatever source of prison income, other than proceeds of the labor of prisoners, and of sales of articles manufactured by them during the week and up to the time of the last deposit appearing on such statement. Any bank in which such deposits shall be made shall, before receiving any such deposits, file a bond with the Comptroller of the State, subject to his approval, for such sum as he shall deem necessary. The moneys so deposited by such agent and warden as convict deposits and miscellaneous earnings shall be subject to his check or draft only when countersigned by the Comptroller. The Comptroller shall countersign such check or draft only when the same is drawn for the payment of an expenditure included in an estimate approved by the Superintendent of State Prisons, and for the purposes hereinafter stated. The agent and war-

den of each prison shall, on the first day of each month, make an estimate and detailed statement of all moneys that will, in his judgement, be required for clothing, allowance and transportation of United States prisoners, and to repay to convicts moneys on deposit to their credit, and the interest thereon, as provided by section fifty-four of title two of chapter three of part four of the Revised Statutes relating to State Prisons, during such month, which estimate shall be forwarded to the Superintendent of State Prisons, who may revise the same by reducing the amount thereof, and he shall certify that he has carefully examined the same, and that the sums stated in said estimate are actually required for the purposes above stated, and he shall thereupon deliver the said estimate, so certified, to the Comptroller. (*As amended by Ch. 72, L. 1900.*)

ESTIMATE OF EXPENSES; REVISION BY COMPTROLLER.— § 46. The agent and warden of each of said prisons shall, on the first day of each month, make an estimate, in minute detail, of the necessary expenses for the support and maintenance of the prison under his charge during such month, and shall submit such estimate to the Superintendent of State Prisons. The Superintendent may revise the said estimate by reducing the amount thereof, and shall certify that he has carefully examined the same and that the articles contained in said estimate, or in said estimate as so revised by him, as the case may be, are actually required for the use of the prison, and the Superintendent of State Prisons shall thereupon present the said estimate and certificate to the Comptroller who shall thereupon authorize the said agent and warden to make his draft on the Treasurer for the sum thus certified, or any part thereof, which amount shall be paid on the warrant of the Comptroller; and it shall not be lawful for such agent and warden to make purchases on behalf of the State for any other than industrial purposes at such prison, unless such purchases have been included in the estimate as presented to and approved by the Superintendent of State Prisons.

MONTHLY FINANCIAL STATEMENT OF WARDEN TO COMPTROLLER.— § 47. The agent and warden of each of said prisons shall on the first day of each month make to the Comptroller a full and perfect statement of all the receipts and expenditures, specifying the items thereof, for the prison under his charge, for the preceding month, which shall be accompanied by the necessary vouchers regularly rendered according to their respective dates, with some short designation thereon of the consideration of payment, evidenced by the vouchers, and the amount of the vouchers carried out in figures: if the vouchers are objectionable, the Comptroller shall enter his dissent on the particular voucher, and return it to the agent and warden, reporting the same, who shall cause it to be immediately corrected and returned. Every such statement shall be verified by an affidavit of the agent and warden thereunto annexed, as follows: I,

agent and warden of the prison, do solemnly swear that I have deposited in the bank, designated by law for such purpose, all the moneys received by me, belonging to the State during the last month; and I do further swear that the foregoing is a true abstract of all the moneys received and expenditures made by me as such agent and warden during the month ending on the day of , eighteen hundred and , and that the goods and other articles therein speified were purchased and received by me at the prison of which I am in charge, and that the goods were purchased at fair cash market prices, and that the same were paid for in cash; and that neither I nor any person in my behalf had any pecuniary or other interest in the articles purchased; that I received no pecuniary or other benefit therefrom in the way of commissions, percentage, deductions or presents, or in any other manner whatever, either directly or indirectly, nor any promise of future payments, presents or benefits, or to any other person for me, either directly or indirectly. The affidavit of the clerk shall likewise be appended thereto, certifying that the articles contained in such bill were received at the prison, and that they conformed in all respects to the invoice of the goods received and entered by him, both in quality and quantity.

MONTHLY REPORTS AS TO INMATES. — § 48. The agent and warden of each of said prisons shall make a monthly report, verified by his oath, to the Superintendent of State Prisons, stating the names of all convicts received into the prison during the preceding month, the counties in which they were tried, the crimes of which they were convicted, the nature and duration of their sentences, their former trade, employment or occupation, their habits, color, age, place of nativity, degree of instruction, and a description of their persons, and also stating whether any such convicts have ever been confined in any state or county prison, and if so, stating the offense for which they were confined, and the duration of their punishment, and also stating in such report the names of all the convicts pardoned or discharged during the past month, and all other particulars in relation to the parties pardoned or discharged, that are required to be stated in relation to the convicts received in the prison.

ANNUAL FINANCIAL REPORT. — § 49. The agent and warden of each of said prisons shall, on or before the fifteenth day of November in each year, render to the Superintendent of State Prisons a full and true report for the year ending with the last day of the previous September, of all moneys received by him on account of the prison under his charge, and all the moneys expended by him for the use thereof, and also an inventory of the goods, raw materials, and other property of the State on hand on the last day of the previous September, which account and inventory shall be attested by the oath of the agent and warden and clerk of the prison to be just and true, together with a state-

ment of all changes in the officers of such prison during such year, and the annual reports to the agent and warden of the clerk, physician and chaplain of each prison, and such other matters as shall be required by the Superintendent of State Prisons.

NOTE.—False entry in accounts, a felony, Penal Code §470.

ANNUAL INVENTORY.— § 50. The Superintendent of State Prisons may, whenever he shall deem advisable, cause an estimate to be made of the value of the goods and other property of the State, for which an inventory has been rendered to him by the agent and warden of either of said prisons, which estimate shall be made under oath by two or more competent persons to be appointed for that purpose by the Superintendent, which inventory and estimate shall be transmitted to the Comptroller of the State on or before the first day of January in each year, with such observations and remarks thereon as the Superintendent may deem necessary to enable the Comptroller to understand the same and to correct any errors that may be discovered therein.

WARDEN TO CONTROL FISCAL TRANSACTIONS— RECOVERY OF DEBTS TO PRISON.— § 51. All the fiscal transactions and dealings on account of each prison shall be conducted by and in the name of the agent and warden thereof, who shall have control over all matters of finance relating to such prison, subject to the direction and supervision of the Superintendent of State Prisons. Such agent and warden shall be capable in law of suing in all courts and places, and in all matters concerning the prison, by his name of office, and by that name shall be authorized to sue for and recover all sums of money due from any person to any former agent, or agent and warden of the prison, or to the people of this State on account of such prison. But it shall not be lawful in any such suit or action for any defendant or defendants to plead or give in evidence any offset or matter by way of recoupment or counter claim (except for payments made, and not credited to such defendant or defendants), or to recover any judgment against such agent and warden in such suit or action other than for the costs and disbursements therein. Each agent and warden shall enforce the payment of all debts due to the prison under his charge as soon and with as little delay as possible, but with the approbation of the Superintendent of State Prisons, and subject to such approbation he may accept any security from any debtor on granting him time, that he may deem conducive to the interests of the State.

WARDEN TO PURCHASE SUPPLIES.— § 52. The agent and warden of each of said prisons shall supply provisions and other suitable articles for the maintenance and supply of the prison under his charge, either by contract or by purchase, as shall be directed by the Superintendent of State Prisons. In case the said Superintendent shall direct that such supplies

shall be obtained by contract, the agent and warden shall cause notice to be published in a newspaper printed in the county in which such prison is situated, and in such other newspapers and for such time as the said Superintendent shall direct, stating the particular supplies wanted, the manner in which they are to be delivered, and the time during which proposals will be received by such agent and warden for furnishing the same. Contracts shall be made by the agent and warden with those persons whose proposals in pursuance with such notice shall be most advantageous to the State, and who shall give satisfactory security for the performance of their contracts, subject to the approval of the said Superintendent, unless the Superintendent shall deem it expedient to decline all proposals and advertise anew. The articles of food and the quantities of each kind shall be prescribed by the said Superintendent and inserted in the contract. All contracts made under this section shall be reduced to writing and signed in duplicate by the parties. One of such duplicates shall be filed with the clerk of the prison, and a copy thereof shall be delivered to the Superintendent of State Prisons.

NOTE.— Imitation butter and cheese not to be purchased for prisons. Ch. 364, L. 1893 post p. 70.

Preference to be given in the purchase of supplies to products raised within this state. Ch. 32, L. 1899 post p. 69.

BILLS AND RECEIPTS FOR SUPPLIES AND SERVICES.— § 53. The agent and warden of each of said prisons shall take bills for all goods purchased by him for such prison at the time of such purchase, and shall take similar bills and receipts for such services that shall be rendered for such prison at the time of making payment therefor, and the person or persons to whom any bill shall be paid by either of said agents and wardens, shall in all cases make and subscribe an affidavit to be sworn to before some person duly authorized by law to take the same, stating that said account and the articles and services therein specified were actually furnished or rendered as charged; that neither the agent and warden, nor any person for him or in his behalf had any pecuniary or other interest in the articles sold or services rendered, or in the profits thereof; that to the best of his knowledge and belief no commissions, presents or profits directly or indirectly connected therewith had been paid to him or any other person; or had been promised to be paid in the future to him or to any other person; that the said bill represents the correct amount due him; that the articles included in such account were sold at fair cash market prices, and that he has actually received the full amount in cash from the said agent and warden.

CONVICTS' MONEY AND OTHER PROPERTY; WHAT TO BE FURNISHED THEM ON THEIR RELEASE.— § 54. The agent and warden of each of said prisons shall take charge of all moneys and other articles which may be brought to the prison by the

convicts and shall cause the same, immediately upon the receipt thereof, to be entered by the clerk among the receipts of the prison; which money and other articles, whenever the convict from whom the same was received shall be discharged from prison, or the same shall be otherwise legally demanded, shall be returned by the said agent and warden to such convicts or other person legally entitled to the same; and for such money as the said convict, or any other person for such a convict, may have so deposited, such convict shall be entitled to receive interest at the rate of four per cent per annum from the time of such deposit until the same shall be so repaid to such convict as aforesaid, and vouchers shall be taken therefor. The agent and warden of each of said prisons shall furnish to each convict who shall be discharged from prison by pardon or otherwise, or who shall be released therefrom on parole, necessary clothing, not exceeding twelve dollars in value (between the first day of November and the first day of April, clothing not exceeding eighteen dollars in value and including an overcoat, shall be so furnished), and ten dollars in money, and a railroad ticket or tickets for the transportation of one person from such prison to the place of the conviction of such a convict, or to such other place as such convict may designate, at no greater distance from said prison than the place of conviction.

NEGLECT OF DUTY BY AGENT AND WARDEN, PUNISHABLE.—§ 55. If the agent and warden of a State prison shall willfully neglect or refuse to make any weekly or monthly return, estimate or statement, or to transmit any statement and certificate of such deposits to the Comptroller, as hereby directed, it shall be the duty of the Comptroller to notify the Superintendent of State Prisons of such omissions, and it shall be the duty of such Superintendent to order the bond of the agent and warden to be prosecuted for the recovery of any moneys which may be in his hands belonging to the State. The agent and warden of a State prison shall be liable to indictment and punishment for any willful neglect of duty, or for any malpractice in the discharge of the duties of his office.

NOTE.—Permitting prisoner to escape, a misdemeanor. Penal Code. Sections 88, 89, 115.

GENERAL DUTIES OF CLERK.—§ 56. It shall be the duty of the clerk of each of said prisons, to reside regularly within one mile from said prison, to conform to the rules of discipline established by the Superintendent of State Prisons, and to perform his duties as prescribed by the Comptroller in accordance with law; to keep a register of convicts, in which the names of the convicts shall be alphabetically arranged, and in which shall be entered, under appropriate columns, the date of conviction, where born, age, occupation, complexion, stature, crime, court in which, county where convicted, term of sentence, number of previous convictions, to what prison or prisons previously sent.

when discharged and how discharged, and such additional facts as the Superintendent of State Prisons may require to be stated on the register; to annually report to the agent and warden of such prison on the first day of November the number of convicts remaining in prison on the last day of the previous September, the number received during the year ending with the last day of the previous September, the number discharged by expiration of sentence, habeas corpus or by the courts, the number of deaths and escapes, and the number transferred to any other penal institution during such year, and the number remaining in prison on the last day of said September; to keep books of account of the financial transactions of the prison; to keep a separate account in a book provided for that purpose of all money and other articles received by the agent and warden from each convict, crediting such convict therefor; to enter each bill taken by the agent and warden of the prison in the books of the prison at the time of the receipt of the articles mentioned in such account, and in case the articles received do not agree in all respects with the invoice, he shall immediately notify the agent and warden of such discrepancy, and note in his book the discrepancy, whether in weight, quantity or quality; to preserve in the prison a set of all official reports made to the Legislature respecting the same, and a set of similar reports in relation to each of the other State prisons, and for that purpose a suitable number of such reports when printed, shall be supplied to him by the Superintendent of State Prisons; to make an annual report, attested by his oath to be just and true, to the Secretary of State, on or before the first day of December of each year, stating the names of convicts discharged or pardoned from said prison during the year ending with the last day of the preceding September, and all the particulars in relation to such convicts as are required to be stated in the agent and warden's monthly report to the Superintendent of State Prisons, and stating also, in the cases of pardon, the time unexpired of the time for which the convicts so pardoned were respectively pardoned, when such pardons were granted, and the conditions, if any, on which they were granted, and also the state of health of each convict so pardoned at the time of his discharge.

NOTE.—Not to be interested in prison contracts or purchases. Penal Code § 48 b. Misappropriation and falsification of accounts, a felony. Id., § 470.

DUTIES OF ASSISTANT CLERK, ALSO OF ASSISTANT FOREMAN OF CONSTRUCTION AT CLINTON PRISON. — § 57. The assistant clerk of each of said prisons shall assist the clerk in the performance of his duties, in conformity with the disciplinary rules and regulations of the Superintendent of State Prisons, and under the direction of the Comptroller. The assistant foreman of construction at Clinton Prison shall, when so directed by the agent and warden, perform the same duties and have the same au-

thority as a prison guard or keeper. (*As amended by Ch. 447, L. 1903.*)

DUTIES OF PHYSICIAN. — § 58. It shall be the duty of the physician at each of said prisons to reside regularly within one mile from said prison, to attend daily during the proper business hours of such prison, and at all times hold himself in readiness to discharge his duties as such physician whenever directed by the agent and warden, unless, by the direction of the Superintendent of State Prisons, he is otherwise engaged in transacting business on account of the prison; to examine weekly the cells of the convicts for the purpose of ascertaining whether they are kept in a proper state of cleanliness and ventilation, and report the same, weekly, to the agent and warden in writing; to examine daily into the quality and state of the provisions delivered to the prisoners, and whenever he shall have reason to believe that any of such provisions are prejudicial to the health of the prisoners, he shall immediately make a report thereof to the agent and warden of the prison in writing; to have charge of the hospital, to attend at all times to the wants of the sick convicts whether in the hospital or in their cells; to prescribe the diet of sick convicts, whether in the hospital or in their cells or elsewhere, and his directions in relation thereto shall be followed by the agent and warden; to keep a daily record of all admissions to the hospital, indicating the color, nativity, age, occupation, habits of life, crime, time of entrance and discharge from the hospital, date of admission to the prison, time in county prison before conviction, disease, if afflicted with scrofula before admission, scrofula during the first, second and third six months after admission to prison, and of the prescriptions and treatment of each case; to report monthly to the agent and warden the number of patients received into the hospital during the last preceding month, stating their respective ages, color, disease and occupation in prison, the quality and kind of medicine administered during the month, the number of those discharged, their condition when discharged, the time they shall have remained in the hospital, the number of deaths, stating causes of such deaths; and it shall be his further duty to state in such report, the number of sick convicts not received into the hospital, for whom he shall have prescribed during the last preceding month, and the quantity and kind of medicine so prescribed, and the number of days during which such convicts, in consequence of sickness, shall have been relieved from labor; to make an annual report to the agent and warden on or before the first day of November in each year of the sanitary condition of the prison for the year ending with the last day of the previous September, with a condensed statement of the information contained in his monthly reports, and of such other matters as shall be required by the agent and warden.

DUTIES OF CHAPLAIN. — § 59. It shall be the duty of the chap-

lain of each of said prisons: To perform religious services in the prison, under such regulations as the Superintendent of State Prisons may prescribe, and to attend to the spiritual wants of the convicts; to visit the convicts in their cells for the purpose of giving them religious and moral instructions, and to devote at least one hour in each week day and the afternoon of each Sunday to such instructions; to furnish, at the expense of the State, a Bible to each convict, if requested by such convict; to take charge of the library and to take care that no improper books are introduced into the cells of the convicts, and if any such books shall be found either in the cells or in the possession of a convict, to take away and return the same to the agent and warden, and for the purpose of properly discharging these duties, to visit weekly each cell in the prison; to visit daily the sick in the hospital; to make a quarterly report to the agent and warden, stating the number of convicts that shall have been instructed during the last quarter, the branches of education in which they shall have been instructed, the text-books used in such instruction, and the progress made by the convicts, and to note especially, any cases in which an unusual progress has been made by a convict; to make an annual report on or before the first day of November in each year, to the agent and warden, which report shall be attested by his oath to be just and true, relative to the religious and moral conduct of the prisoners in each prison during the year ending with the last day of the previous September, stating therein what services he shall have performed, and the fruits, if any, of his instructions, and he shall append thereto, as far as practicable, in tabular form, a statement exhibiting the number of convicts in prison, on the last day of such September, and at what age convicted, specifying separately the number born in the United States, foreigners, and of what country, and the nativity of their parents, the number that cannot read, that can read only, read and write, well educated, classically educated, temperate, intemperate, healthy, scrofulous, whether employed at the time of the commission of the crime, counties where convicted, occupation, sentence, how many times recommitted, and social state.

DUTIES OF PRINCIPAL KEEPER. — § 60. It shall be the duty of the principal keeper of each of the prisons, to keep a time-book, in which shall be inserted the names of all the officers, keepers and guards belonging to the prison, except the agent and warden, and opposite to each name, he shall daily mark whether such officer, keeper or guard, was absent or present, and at the end of each month shall add up the same and verify such statement by his affidavit that it is correct, which statement, so sworn to, shall be delivered to the agent and warden, who shall forward the same to the Comptroller with his monthly report.

DUTIES OF STORE-KEEPER. — § 61. It shall be the duty of the

store-keeper of each of said prisons to take charge of all provisions and other articles purchased for the prison, to compare all such purchases with the bills thereof, furnished to him by the agent and warden of such prison, and to note all discrepancies, and to enter the goods so received in books to be kept by him for that purpose; to keep such goods, when received, in some safe place under his charge, and no goods shall be delivered by him except on a requisition from the kitchen-keeper, or the agent and warden or principal keeper, or in his or their absence, the person acting as such. Such requisition shall in all cases be in writing, and be by him placed on file, and in addition thereto, the articles named in such requisition shall be entered in his books, which books shall state what the articles were, the quantity delivered, and on whose order they were delivered, and to what shop or place sent. It shall also be his duty to keep a perfect, just and true account of all goods sold by the agent and warden, or other officers of the prison, belonging to the prison; at the end of each month to make out a correct statement, attested by his affidavit, giving the amount of each article received, and the quantity, and the amount and kinds of goods delivered on requisitions, and to whom delivered, and the quantity of each kind of property then on hand, with the value thereof at that time, which statement, when made up, shall be delivered to the agent and warden, and by him examined, and if found correct, he shall so certify thereon; such report shall be then forwarded to the Comptroller by the agent and warden.

NOTE—Store-keeper not to be interested in prison contracts or purchases. Penal Code § 48b. Falsification of accounts, a felony. *Id.*, § 470.

DUTIES OF KITCHEN-KEEPER.— § 62. It shall be the duty of the kitchen-keeper of each of said prisons to keep a proper book, and to enter therein all goods received on his requisition from the store-keeper, and the amount cooked and sent to the hospital, and to make a report, attested by his oath to be just and true, at the end of each month to the agent and warden of the amount of such goods then on hand, and the amount received and consumed during the month.

NOTES, DRAFTS AND EVIDENCES OF DEBT NOT TO BE GIVEN.— § 63. No agent and warden or other officer of either of the State prisons of this State shall give any note, draft or other evidence of debt, except a check on the bank, designated by the Comptroller, as aforesaid, and such checks and drafts as are authorized by law, in payment for any article purchased for either of said prisons, and signed by him or them individually or in their official capacity, nor shall any such agent and warden, or any other officer, sign any paper as agent and warden for the purpose or with the intent of putting or having the same put in circulation for any purpose whatever.

(§ 64 repealed by Ch. 692, L. 1893.)

CERTAIN OFFICERS TO ADMINISTER OATHS.— § 65. The Sup-

erintendent of State Prisons and his clerk may administer oaths and take affidavits in all matters relating to the affairs of the State prisons under his charge. The agent and warden, clerk, assistant clerk and principal keeper of each prison are authorized and required to take affidavits, in all matters of accounts against their respective prisons, and also in relation to fees of sheriffs in bringing convicts to either of the said prisons. (*As amended by Ch. 465, L. 1894.*)

NOTE.—Fees of sheriffs for transporting convicts to prison, post p. 67.

CLINTON PRISON WATER WORKS.— § 66. The agent and warden of the Clinton Prison is authorized to appropriate to the use thereof, all waters upon the tract purchased for the establishment of said prison; and any person claiming damages in consequence of such appropriation of water, shall, within six months thereafter, make application to the county judge of the County of Clinton, who shall appoint three commissioners not interested in lands through which the stream or streams of water so appropriated may have previously run, who shall personally examine the lands of the applicant and make an estimate of the damages he has sustained by reason of such appropriation of water, which estimate shall be reduced to writing, subscribed and sworn to by said commissioners, and then transmitted to the Comptroller of this State, who shall thereupon pay the estimated damages of the applicant out of the funds appropriated for said prison.

LANDS RETAINED FOR USE OF CLINTON PRISON.— § 67. All lands belonging to the State of New York, or which may hereafter become the property of said State, and which shall be situated within ten miles of the Clinton Prison, shall be withdrawn from sale, and shall be retained by the State for the use of said prison and the Dannemora Hospital for Insane Convicts. The Superintendent of State Prisons shall designate the portion of said lands to be used by each institution. (*As amended by Ch. 208, L. 1894, Ch. 216, L. 1897, and Ch. 323, L. 1904.*)

NOTE.—Ch. 457, L. 1871, establishes the southerly bounds of the State lands at Clinton Prison. See post p. 67.

SING SING PRISON FARM.— § 68. The agent and warden of the Sing Sing Prison shall continue to have charge of the farm and premises on which the same is situated and it shall be his duty to rent or otherwise use or improve the same to the best advantage of the State, but no lease shall be made by him for a longer term than three years.

ARTICLE II.

OF THE DISPOSITION, DISCIPLINE AND INSTRUCTION OF PRISONERS.

- Section 69. Sentence of convicts in certain districts.
 70. Court to examine before sentence; to be included in commitment.
 71. Delivery of commitment with prisoner; payment of fees for transportation.
 72. Imprisonment of convict sentenced to death and commuted by Governor.
 73. Transfer from one prison to another.
 74. Prisoners subject to parole.
 75. Board of Commissioners for Paroled Prisoners.
 76. Meetings—application for release on parole or for discharge.
 77. Biographical record of prisoners on indeterminate sentence.
 78. Release on parole of prisoners on indeterminate sentence.
 79. Arrest of paroled prisoner, warrant for.
 80. Officer may arrest prisoner.
 81. Appearance of recaptured paroled prisoner before Parole Board; imprisonment after delinquency.
 82. Absolute discharge of paroled prisoner.
 83. Not affect Governor's powers to pardon or commute.
 84. Prison instruction.
 85. Single cells.
 86. Clothing, bedding and food of prisoners.
 87. Prison punishment.
 88. Solitary confinement on short rations.
 89. Escaped prisoners, reward for; increased imprisonment because of escape.
 90. Warden to report as to prisoner believed insane when crime was committed.
 91. Inquest of coroner on death of prisoner.
 92. Contagious disease in prison.
 93. Fire in prison.

SENTENCE OF CONVICTS IN CERTAIN DISTRICTS.— § 69. All male convicts sentenced to imprisonment in a State prison in the first and second judicial districts shall be sentenced to the Sing Sing Prison, and all so sentenced in the third and fourth judicial districts, shall be sentenced to the Clinton Prison, and all so sentenced in the fifth, sixth, seventh and eighth judicial districts shall be sentenced to the Auburn Prison.

NOTE.—See sections of Penal Code, post

COURT TO EXAMINE BEFORE SENTENCE; TO BE INCLUDED IN COMMITMENT.— § 70. It shall be the duty of the court in which any person shall be convicted of an offence punishable in a State prison, before passing the sentence therefor, to ascertain by the examination of such convict on oath, and in addition to such oath, by such other evidence as can be obtained, whether such convict had learned and practiced any mechanical trade, and in like manner such other facts tending to indicate the causes of the criminal character or conduct of such convict, as to the court shall seem proper and desirable, and the court shall direct the clerk of the court to enter such of the facts so ascertained, and

such other facts as to the court shall seem proper and desirable, upon the minutes of the court, and said clerk shall include a copy thereof in the certified copy of the sentence of such convict which shall be delivered to the sheriff of the county in which such conviction shall be had.

DELIVERY OF COMMITMENT WITH PRISONER; PAYMENT OF FEES FOR TRANSPORTATION.— § 71. Whenever any convict shall be delivered to the agent and warden of either of said State prisons, in pursuance of such sentence, the officers so delivering such convict, shall deliver to such agent and warden, the certified copy of the sentence received by such officer from the clerk of the court by which such convict shall have been sentenced, and such agent and warden shall deliver to such officer a certificate of the delivery of such convict, and the fees of such officer for transporting such convict shall be paid by the Treasurer upon the warrant of the Comptroller.

NOTE.—Fees of sheriffs for conveying convicts from county prison to state prisons fixed by Ch. 128, L. 1877. See post p. 67.

IMPRISONMENT OF CONVICT SENTENCED TO DEATH AND COMMUTED BY GOVERNOR.— § 72. The agent and warden of each of said prisons shall receive into the prison under his charge, on the order of the Governor, any person convicted of any crime punishable by death, or who shall be pardoned, on condition of being confined either for life or a term of years in a State prison, and confine such prisoner according to the terms of such condition.

TRANSFER FROM ONE PRISON TO ANOTHER.— § 73. Whenever the transfer of a prisoner or prisoners from one State prison to another shall be ordered by the Superintendent of State Prisons, the agent and warden of the prison from which such transfer is to be made, shall cause the prisoners to be sufficiently chained in pairs so far as practicable, and to be transported to the prison to which they are so ordered to be transferred, and to be delivered together with the certified copies of their sentences to the agent and warden of such last-mentioned prison, who shall receive and keep them according to their sentences respectively, as if they had been originally sentenced thereto. The persons so employed to transport such prisoners shall prohibit all intercourse between them, and may inflict any reasonable and necessary correction upon such prisoners for disobedience or misconduct in any respect. All necessary expenses of such transfer of such prisoners shall be deemed a part of the incidental expenses of the prison from which they shall be transferred. The necessary expenses of the transfer of any prisoner from a State prison to the State Asylum for Insane Criminals, or to any other penal institution, shall also be deemed a part of the incidental expenses of such prison.

PRISONERS SUBJECT TO PAROLE.— § 74. Every person now confined in a State prison, or in the Eastern New York Reform-

atory, under sentence for a definite term for a felony, the maximum penalty for which is imprisonment for five years or less, exclusive of fines, who has never before been convicted of a crime punishable by imprisonment in a State prison shall be subject to the jurisdiction of the Board of Commissioners of Paroled Prisoners and may be paroled in the same manner and subject to the same conditions and penalties as prisoners confined under indeterminate sentences. The minimum and maximum terms of the sentences of said prisoners are hereby fixed and determined to be as follows: The definite term for which each person is sentenced shall be the maximum limit of his term, and one-third of the definite term of his sentence shall be the minimum limit of his term. (*As amended by Ch. 260, L. 1901, and by Ch. 500, L. 1902,*)

NOTE.—Definition of terms “definite” and “indeterminate” is given in § 1, Ch. 21, L. 1886, on page 75.

BOARD OF COMMISSIONERS FOR PAROLED PRISONERS—PAROLE OFFICER. — § 75. The members of the State Commission of Prisons shall hereafter constitute a Board of Commissioners for Paroled Prisoners for the State prisons and the Eastern New York Reformatory, and the Board of Parole constituted by section two, of chapter three hundred and forty-eight, of the laws of nineteen hundred for the Eastern New York Reformatory is hereby abolished. The Superintendent of State Prisons shall appoint a parole officer for each prison. It shall be the duty of such officers to aid paroled prisoners in securing employment and to visit and exercise supervision over them while on parole, and they shall have such authority and perform such other duties as the Board of Commissioners for Paroled Prisoners may direct. The salary of each parole officer shall not exceed twelve hundred dollars per annum which together with his actual and necessary traveling expenses shall be payable from the maintenance fund of the prison to which he is assigned. (*As amended by Ch. 260, L. 1901.*)

MEETINGS — APPLICATION FOR RELEASE ON PAROLE OR FOR DISCHARGE. — § 76. A majority of the Board of Commissioners of Paroled Prisoners shall constitute a quorum for the transaction of business, and they shall meet upon dates to be fixed by them in the months of April and October in each year, and at such other times as they may deem necessary. Each prisoner confined in a State prison, or in the Eastern New York Reformatory, may upon the expiration of the minimum term of his sentence, make application to the board, in writing and in such form as they may prescribe, for his release upon parole, or for an absolute discharge as hereinafter provided, and said board is hereby prohibited from entertaining any other form of application or petition for the release upon parole or absolute discharge of any prisoner. (*As amended by Ch. 260, L. 1901.*)

NOTE.—The foregoing Sections 74, 75 and 76 were amended by Section one of Chapter 260, Laws of 1901, and the other Sections of said Chapter 260, are as follows:

§ 2. Nothing herein contained shall affect the right or liability of convicts to earn or forfeit commutation of sentence as provided by chapter twenty-one of the laws of eighteen hundred and eighty-six.

§ 3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect September first, nineteen hundred and one.

BIOGRAPHICAL RECORD OF PRISONERS ON INDETERMINATE SENTENCE.— § 77. The Superintendent of State Prisons shall cause to be kept, at each State prison, a full and accurate record of each prisoner therein confined upon an indeterminate sentence as aforesaid, which record shall include a biographical sketch covering such items as may indicate the causes of the criminal character or conduct of the prisoner, and also a record of the demeanor, education and labor of the prisoner while confined in such prison; and whenever such prisoner is transferred, from one prison to another, a copy of such record or an abstract of the substance thereof, together with the certified copy of the sentence of such prisoner shall be transmitted with such prisoner to the prison to which he shall be transferred.

NOTE.—This section with Ch. 21, L. 1886, supersedes § 3, Ch. 417, L. 1862 as amended by Ch. 415, L. 1863.

RELEASE ON PAROLE OF PRISONERS ON INDETERMINATE SENTENCE.— § 78. If it shall appear to said Board of Commissioners of Paroled Prisoners, upon an application by a convict for release on parole as hereinbefore provided that there is reasonable probability that such applicant will live and remain at liberty without violating the law, then said Board of Commissioners may authorize the release of such applicant upon parole, and such applicant shall thereupon be allowed to go upon parole outside said prison walls and enclosure upon such terms and conditions as said board shall prescribe, but to remain, while so on parole, in the legal custody and under the control of the agent and warden of the State prison from which he is so paroled, until the expiration of the maximum term specified in his sentence as hereinbefore provided, or until his absolute discharge as hereinafter provided.

ARREST OF PAROLED PRISONER, WARRANT FOR.— § 79. If the agent and warden of the prison from which such prisoner was paroled, or said board or any member thereof shall have reasonable cause to believe that the prisoner so on parole has violated his parole and has lapsed or is probably about to lapse into criminal ways or company, then such agent and warden or said board, or any member thereof, may issue his warrant for the retaking of such prisoner. (*As amended by Ch. 500, L. 1902.*)

OFFICER MAY ARREST PRISONER.— § 80. Any officer of said prison, any parole officer, or any officer authorized to serve

criminal process within this State to whom such warrant shall be delivered is authorized and required to execute said warrant by taking said prisoner and returning him to said prison, within the time specified in said warrant therefor. Such officer other than an officer of the prison, or parole officer, shall be entitled to receive the same fees therefor as upon the execution of a warrant of arrest at the place where said prisoner shall be retaken, and as for transporting a convict from the place of arrest to the prison, in case such officer also transports said prisoner to the prison. Such fees of the officer other than a prison officer, or parole officer, and the expenses of a prison officer in executing such warrant shall be paid by the agent and warden of the prison out of the moneys standing to the credit of such paroled prisoner as hereinafter provided, if any or sufficient therefor, and otherwise out of the funds of the prison. The parole officers, for purposes of identification, may, within this State, measure, describe and photograph prisoners in accordance with the Bertillon system. (*As amended by Ch. 500, L. 1902.*)

APPEARANCE OF RECAPTURED PAROLED PRISONER BEFORE PAROLE BOARD; IMPRISONMENT AFTER DELINQUENCY. — § 81. At the next meeting of the Board of Commissioners of Paroled Prisoners, held at such prison, after the issuing of a warrant for the retaking of any paroled prisoner, said board shall be notified thereof. If said prisoner shall have then been returned to said prison, he shall be given an opportunity to appear before said board, and the said board may after such opportunity has been given, or in case said prisoner has not yet been returned, declare said prisoner to be delinquent, and he shall whenever arrested by virtue of such warrant be thereafter imprisoned in said prison for a period equal to the unexpired maximum term of sentence of such prisoner, at the time such delinquency is declared, unless sooner released on parole or absolutely discharged by the Board of Commissioners of Paroled Prisoners.

ABSOLUTE DISCHARGE OF PAROLED PRISONER. — § 82. If it shall appear to said Board of Commissioners that there is reasonable probability that any prisoner so on parole will live and remain at liberty without violating the law, and that his absolute discharge from imprisonment is not incompatible with the welfare of society, then said Board of Commissioners shall, if such prisoner was originally sentenced to an indeterminate term, issue to said prisoner an absolute discharge from imprisonment upon such sentence, which shall be effective therefor, and if such prisoner was originally sentenced to a definite term the said Board of Commissioners shall report his case to the Governor, with such information and recommendations as they may deem proper, for his discretionary action. (*As amended by Ch. 500, L. 1902.*)

NOT AFFECT GOVERNOR'S POWERS TO PARDON OR COMMUTE. — § 83. Nothing herein contained shall be construed to impair

the power of the Governor of the State to grant a pardon or commutation in any case.

PRISON INSTRUCTION.— § 84. It shall be the duty of the agent and warden of each of such prisons, so far as practicable and necessary, to appoint as keepers of such prison, persons qualified to instruct the prisoners in the trades and manufactures prosecuted in such prison, or in other industrial occupations. Instruction shall also be given in the useful branches of an English education to such prisoners as in the judgment of the agent and warden or chaplain, may require the same and be benefited thereby. The time devoted to such instruction shall not be less than an average of one hour and a half daily, Sunday excepted, between the hours of six and nine in the evening, in such room or rooms as may be provided for that purpose.

SINGLE CELLS.— § 85. Whenever there shall be a sufficient number of cells in the prison, it shall be the duty of the warden to keep each prisoner single in his cell at night, and also in the daytime when not employed, unless such prisoner be then released on parole.

CLOTHING, BEDDING AND FOOD OF PRISONERS.— § 86. The clothing and bedding of the prisoners shall be of coarse materials, and shall be manufactured as far as practicable in the prison. The prisoners shall be supplied with a sufficient quantity of inferior but wholesome food.

PRISON PUNISHMENT.— § 87. The punishment commonly known as the shower bath, crucifix, and yoke and buck are hereby abolished in all the State prisons and penitentiaries of this State. No keeper in any prison shall inflict any blows whatever upon any prisoner, unless in self-defense, or to suppress a revolt or insurrection. When several prisoners combine, or any single prisoner shall offer violence to any officer of a State prison, or to any other prisoner, or do or attempt to do any injury to the building or any workshop or to any appurtenances thereof, or to any property therein, or shall attempt to escape, or shall resist or disobey any lawful command, the officers of the prison shall use all suitable means to defend themselves, to enforce observation of discipline; to secure the person of the offenders, and to prevent any such attempt or escape.

SOLITARY CONFINEMENT ON SHORT RATIONS.— § 88. If in the opinion of the agent and warden of such prison it shall be deemed necessary, in any case, to inflict unusual punishment in order to produce the entire submission or obedience of any prisoner, it shall be the duty of such agent and warden to confine such prisoner immediately in a cell, upon a short allowance, and to retain him therein until he shall be reduced to submission and obedience. The short allowance of each prisoner so confined shall be prescribed by the physician, whose duty it shall be to visit such prisoner and examine daily into the state of his health

until the prisoner be released from solitary confinement and returned to his labor.

ESCAPED PRISONERS, REWARD FOR; INCREASED IMPRISONMENT BECAUSE OF ESCAPE.— § 89. Whenever any prisoner confined in a State prison, and not released on parole, shall escape therefrom, it shall be the duty of the agent and warden of such prison to take all proper measures for the apprehension of the prisoner or prisoners so escaped; and in his discretion he may offer a reward not exceeding fifty dollars for the apprehension and delivery of every such escaped prisoner or prisoners; and, with the consent of the Superintendent of State Prisons, such reward may be increased to a sum not exceeding two hundred and fifty dollars each. The agent and warden of a State prison may pay a reward not exceeding fifty dollars for the apprehension and delivery of any such escaped prisoner, whether such reward shall have been previously offered or not. Any such prisoner, escaped from any State prison or penitentiary in this State, and afterwards arrested, shall serve out the full balance of his sentence remaining unexpired at the time of such escape, notwithstanding the time may have expired previous to his recovery, as if he had remained in prison, except as provided by chapter twenty-one of the laws of eighteen hundred and eighty-six. All suitable rewards and other sums of money paid for so advertising and apprehending any such escaped prisoner shall be paid by the agent and warden out of the funds of the prison.

NOTE.—See sections of the Penal Code, post

WARDEN TO REPORT AS TO PRISONER BELIEVED INSANE WHEN CRIME WAS COMMITTED.— § 90. Whenever the agent and warden of a State prison shall have reason to believe that any prisoner in the prison was insane at the time he committed the offense for which he was sentenced, such warden shall communicate in writing to the Governor his reason for such opinion, and shall refer the Governor to all the sources of information with which he may be acquainted in relation to the insanity of such prisoner.

INQUEST OF CORONER ON DEATH OF PRISONER.— § 91. Whenever a prisoner shall die in any State prison, it shall be the duty of the Superintendent of State Prisons, and of the agent and warden, physician and chaplain of the prison, if they or either of them shall have reason to believe that the death of the prisoner arose from any other cause than ordinary sickness, to call upon the coroner having jurisdiction, to hold an inquest upon the body of such deceased prisoner.

CONTAGIOUS DISEASE IN PRISON.— § 92. In case any pestilence or contagious disease shall break out among the prisoners in either of the State prisons, or in the vicinity of such prisons, the Superintendent of State Prisons may cause the prisoners

confined in such prison, or any of them, to be removed to some suitable place of security, where such of them as may be sick shall receive all necessary care and medical assistance; such prisoners shall be returned as soon as may be to the State prison from which they were taken, to be confined therein according to their respective sentences.

FIRE IN PRISON.— § 93. Whenever by reason of any State prison, or any building contiguous to such prison, being on fire, there shall be reason to apprehend that the prisoners may be injured or endangered by such fire, or may escape, it shall be the duty of the agent and warden of such prison to remove such prisoners to some safe and convenient place, and there confine them until the necessity of such removal shall have ceased.

NOTE.—§ 94 repealed by Ch. 692, L. 1893.

ARTICLE III.

OF THE LABOR OF PRISONERS.

- Section 95. Prisoners, how graded.
- 96. Promotions and reductions in grades.
 - 97. Contracts prohibited.
 - 98. Prisoners to be employed; products of labor of prisoners.
 - 99. Labor of prisoners of first grade, how directed.
 - 100. Labor of prisoners of the second grade, how directed.
 - 101. Labor of prisoners of third grade, how directed.
 - 102. Prisoners employed for use of State, etc.
 - 103. Labor of prisoners in prisons and penitentiaries.
 - 104. Classification of industries; report as to industries.
 - 105. Articles manufactured to be furnished to State, etc; duties of officers.
 - 106. Estimates of articles required to be furnished Commission of Prisons by officers.
 - 107. Board of Classification—prices to be fixed.
 - 108. Earnings of prisoners.
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 - 111. Monthly statement of receipts and expenditures for prison industries.
 - 112. Statement of machinery, etc., required.
 - 113. Machinery and materials for prison industries, how purchased.
 - 114. Purchases to be included in estimates.
 - 115. Deposits by agent and warden in banks.
 - 116. United States prisoners.
 - 117. Violations of prison labor regulations.

PRISONERS, HOW GRADED.— § 95. The Superintendent of State Prisons shall direct the classification of prisoners into three classes or grades, as follows: In the first grade shall be included those appearing to be corrigible or less vicious than the others and likely to observe the laws and to maintain themselves by honest industry after their discharge; in the second grade shall be included those appearing to be incorrigible or more vicious, but so competent to work and so reasonably obedient to prison

discipline as not seriously to interfere with the productiveness of their labor, or of the labor of those in company with whom they may be employed; in the third grade shall be included those appearing to be incorrigible or so insubordinate or so incompetent otherwise than from temporary ill health as to seriously interfere with the discipline or productiveness of the labor of the prison.

PROMOTIONS AND REDUCTIONS IN GRADES.— § 96. The Superintendent of State Prisons may make rules and regulations for the promotion or reduction of the prisoners from one grade to another, and shall transfer from time to time the prisoners in the State prisons from one prison to another with reference to the respective capacities of the several State prisons, or with reference to the health or reformation of the prisoners, or with reference to including all prisoners of one grade as nearly as may be practicable in one prison, or may direct the separation from each other of the prisoners of different grades so far as practicable within each State prison.

CONTRACTS PROHIBITED.— § 97. The Superintendent of State Prisons shall not, nor shall any other authority whatsoever, make any contract by which the labor or time of any prisoner in any State prison, reformatory, penitentiary or jail in this State, or the product or profit of his work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the convicts in said penal institutions may work for, and the products of their labor may be disposed of, to the State or any political division thereof or for or to any public institution owned or managed and controlled by the State, or any political division thereof. (*As amended by Ch. 429, L. 1896.*)

NOTE.—See Const. art. III, § 29, ante page 5. Contract entered into prior to adoption of Constitution not annulled by such adoption. *Bronk vs. Barckley* App. Div. 72.

The foregoing section (97) supersedes § 1 Ch. 21, L. 1884. Ch. 737, L. 1894, "an act to regulate the employment of prison labor in the manufacture of brooms and brushes made of broom corn" is made obsolete by the Constitution and foregoing Sec. 97.

Section 3, Ch. 382, L. 1889 as amended, provides that the labor in all penal institutions of the State shall be conducted as authorized at State prisons by the sections 97 and 98 of this act. See post p. 43.

PRISONERS TO BE EMPLOYED; PRODUCTS OF LABOR OF PRISONERS.— § 98. The Superintendent of State Prisons, the superintendents, managers and officials of all reformatories and penitentiaries in the State, shall, so far as practicable, cause all the prisoners in said institutions, who are physically capable thereof, to be employed at hard labor, for not to exceed eight hours of each day, other than Sundays and public holidays, but such hard labor shall be either for the purpose of production of supplies for said institutions, or for the State, or any political division thereof, or for any public institution owned or man-

aged and controlled by the State, or any political division thereof; or for the purpose of industrial training and instruction, or partly for one, and partly for the other of such purposes. (*As amended by Ch. 429, L. 1896.*)

NOTE.—See note to § 97.

LABOR OF PRISONERS OF FIRST GRADE, HOW DIRECTED.— § 99. The labor of the prisoners of the first grade in each of said prisons, reformatories and penitentiaries, shall be directed with reference to fitting the prisoner to maintain himself by honest industry after his discharge from imprisonment, as the primary or sole object of such labor, and such prisoners of the first grade may be so employed at hard labor for industrial training and instruction solely, even though no useful or salable products result from their labor, but only in case such industrial training or instruction can be more effectively given in such manner. Otherwise, and so far as is consistent with the primary object of the labor of prisoners of the first grade as aforesaid, the labor of such prisoners shall be so directed as to produce the greatest amount of useful products, articles and supplies needed and used in the said institutions, and in the buildings and offices of the State, or those of any political division thereof, or in any public institution owned and managed and controlled by the State or any political division thereof, or said labor may be for the State, or any political division thereof. (*As amended by Ch. 429, L. 1896.*)

LABOR OF PRISONERS OF THE SECOND GRADE, HOW DIRECTED.— § 100. The labor of prisoners of the second grade in said prisons, reformatories and penitentiaries shall be directed primarily to labor for the State or any political division thereof, or to the production and manufacture of useful articles and supplies for said institutions, or for any public institution owned or managed and controlled by the State, or any political division thereof. (*As amended by Ch. 429, L. 1896.*)

LABOR OF PRISONERS OF THIRD GRADE, HOW DIRECTED.— § 101. The labor of prisoners of the third grade shall be directed to such exercise as shall tend to the preservation of health, or they shall be employed in labor for the State, or a political division thereof, or in the manufacture of such useful articles and supplies as are needed and used in the said institutions, and in the public institutions owned or managed and controlled by the State, or any political division thereof. (*As amended by Ch. 429, L. 1896.*)

PRISONERS EMPLOYED FOR USE OF STATE, ETC.— § 102. All convicts sentenced to State prisons, reformatories and penitentiaries in the State, shall be employed for the State, or a political division thereof, or in productive industries for the benefit of the State, or the political divisions thereof, or for the use of public institutions owned or managed and controlled by the

State, or the political divisions thereof, which shall be under rules and regulations for the distribution and diversification thereof, to be established by the State Commission of Prisons. (*As amended by Ch. 429, L. 1896.*)

NOTE—Printing and photo-engraving not to be done in State prisons. Ch. 645, L. 1898, post. Commission of Prisons, organization, powers and duties, Ch. 1026, L. 1895, post. Constitution Art. VIII, § 11, ante.

LABOR OF PRISONERS IN PRISONS AND PENITENTIARIES. — § 103. The labor of the convicts in State prisons and reformatories in the State, after the necessary labor for and manufacture of all needed supplies, for said institutions, shall be primarily devoted to the State and the public buildings and institutions thereof, and the manufacture of supplies for the State, and public institutions thereof, and secondly to the political divisions of the State, and public institutions thereof; and the labor of the convicts in the penitentiaries, after the necessary labor for and manufacture of all needed supplies for the same, shall be primarily devoted to the counties, respectively, in which said penitentiaries are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political divisions thereof, and secondly to the State and the public institutions thereof. (*As amended by Ch. 429, L. 1896.*)

NOTE.—Const., Art. III, § 29.

CLASSIFICATION OF INDUSTRIES; REPORT AS TO INDUSTRIES. — § 104. It shall be the duty of the Superintendent of State Prisons to distribute, among the penal institutions under his jurisdiction, the labor and industries assigned by the commission to said institutions, due regard being had to the location and convenience of the prisons, and of the other institutions to be supplied, the machinery now therein and the number of prisoners, in order to secure the best service and distribution of the labor, and to employ prisoners, so far as practicable, in occupations in which they will be most likely to obtain employment after their discharge from imprisonment; to change or dispose of the present plants and machinery in said institutions now used in industries which shall be discontinued, and which cannot be used in the industries hereafter to be carried on in said prisons, due effort to be made by full notice to probable purchasers, in case of sales of industries or machinery, to obtain the best price possible for the property sold, and good will of the business to be discontinued. The Superintendent of State Prisons shall annually cause to be procured and transmitted to the Legislature, with his annual report, a statement showing in detail the amount and quantity of each of the various articles manufactured in the several penal institutions under his control and the labor performed by convicts therein, and of the disposition thereof. (*As amended by Ch. 429, L. 1896.*)

ARTICLES MANUFACTURED TO BE FURNISHED TO STATE, ETC;

DUTIES OF OFFICERS. — § 105. The Superintendent of State Prisons, and the superintendents of reformatories and penitentiaries, respectively, are authorized and directed to cause to be manufactured by the convicts in the prisons, reformatories and penitentiaries, such articles as are needed and used therein, and also such as are required by the State or political divisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the State, including articles and materials to be used in the erection of the buildings. All such articles manufactured in the State prisons, reformatories and penitentiaries, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the Board of Classification, and may be furnished to the State, or to any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials, trustees or managers thereof. No article so manufactured shall be purchased from any other source, for the State or public institutions of the State, or the political divisions thereof, unless said State Commission of Prisons shall certify that the same cannot be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate. (*As amended by Ch. 429, L. 1896 and by Ch. 447, L. 1903.*)

ESTIMATES OF ARTICLES REQUIRED TO BE FURNISHED COMMISSION OF PRISONS BY OFFICERS. — § 106. On or before October first in each year, the proper officials of the State, and the political divisions thereof, and of the institutions of the State, or political divisions thereof, shall report to the said Commission of Prisons estimates for the ensuing year of the amount of supplies of different kinds required to be purchased by them that can be furnished by the penal institutions in the State. The said commission is authorized to make regulations for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in said penal institutions. (*As amended by Ch. 429, L. 1896.*)

BOARD OF CLASSIFICATION—PRICES TO BE FIXED. — § 107. The Fiscal Supervisor of State Charities, the State Commission of Prisons, and the Superintendent of State Prisons and the Lunacy Commission are hereby constituted a board to be known as the Board of Classification. Said board shall fix and determine the prices at which all labor performed, and all articles manufactured in the charitable institutions managed and controlled by the State and in the penal institutions in this State, and furnished to the State, or the political divisions thereof, or to the public institutions thereof, shall be furnished, which prices shall be uniform to all, except that the prices for goods or labor furnished by the penitentiaries to or for the county in which they are lo-

cated, or the political divisions thereof, shall be fixed by the board of supervisors of such counties, except New York and Kings Counties, in which the prices shall be fixed by the Commissioners of Charities and Correction, respectively. The prices shall be as near the usual market price for such labor and supplies as possible. The State Commission of Prisons shall devise and furnish to all such institutions a proper form for such requisition, and the Comptroller shall devise and furnish a proper system of accounts to be kept for all such transactions. It shall also be the duty of the Board of Classification to classify the buildings, offices and institutions owned or managed and controlled by the State, and it shall fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, in the charitable and penal institutions in this State. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the penal institutions in this State. (*As amended by Ch. 473, L. 1895; Ch. 429, L. 1896; Ch. 623, L. 1897; Ch. 418, L. 1901 and Ch. 447, L. 1903.*)

EARNINGS OF PRISONERS.— § 108. Every prisoner confined in the State prisons, reformatories and penitentiaries, who shall become entitled to a diminution of his term of sentence by good conduct, may, in the discretion of the agent and warden, or of the superintendent of the reformatory, or superintendent of the penitentiary, receive compensation from the earnings of the prison or reformatory or penitentiary in which he is confined, such compensation to be graded by the agent and warden of the prison for the prisoners therein, and the superintendent of the reformatory and penitentiary, for the prisoners therein, for the time such prisoners may work, but in no case shall the compensation allowed to such convicts exceed in amount ten percentum of the earnings of the prison or reformatory or penitentiary in which they are confined. The difference in the rate of compensation shall be based both on the pecuniary value of the work performed, and also on the willingness, industry and good conduct of such prisoner; provided, that whenever any prisoner shall forfeit his good time for misconduct or violation of the rules or regulations of the prison, reformatory or penitentiary, he shall forfeit out of the compensation allowed under this section fifty cents for each day of good time so forfeited; and provided, that prisoners serving life sentences shall be entitled to the benefit of this section when their conduct is such as would entitle other prisoners to a diminution of sentence, subject to forfeiture of good time for misconduct as herein provided. The agent and warden of each prison, or the superintendent of the reformatory or superintendent of the penitentiary may institute and maintain a uniform system of fines, to be imposed at his

discretion, in place of his other penalties and punishments, to be deducted from such compensation standing to the credit of any prisoner, for misconduct by such prisoner. (*As amended by Ch. 429, L. 1896.*)

DISPOSITION OF FINES. — § 109. All moneys received for fines under this act, from prisons and reformatories, shall be credited to a general fund, and be disbursed by direction of the Superintendent of Prisons, for special aid to discharged prisoners who are infirm, indigent, or in any way incapable, to an unusual degree, of earning a sufficient subsistence after their release, and all moneys received for fines imposed under this act by the superintendent of penitentiaries, shall be credited to a general fund and be disbursed by direction of the board of supervisors of the counties in which they are located, except that in the Counties of New York and Kings they shall be disbursed by direction of the Commission of Charities and Corrections. (*As amended by Ch. 429, L. 1896.*)

DISPOSITION OF MONEYS PAID TO PRISONER FOR HIS LABOR. — § 110. The amount of such surplus standing on the books of the prison, to the credit of any prisoner may be drawn by the prisoner during his imprisonment, only upon the certified approval of the Superintendent of State Prisons for disbursement by the agent and warden of said prison or superintendent of said reformatory to aid dependent relatives of such prisoner, or for books, instruments and instruction not supplied by the prison to the men of his grade, or may with the approval of the said Superintendent of State Prisons be so disbursed without the consent of such prisoner, but no portion thereof shall be disbursed for indulgences of food, clothing or ornament beyond the common condition of the others in his class in the prison at the time. And any balance to the credit of any prisoner at the time of his conditional release as provided by this act, shall be subject to the draft of the prisoner in such sums and at such times as the Superintendent of State Prisons shall approve; but, at the date of the absolute discharge of any prisoner the whole amount of credit balance as aforesaid shall be subject to his draft at his pleasure. Provided, that any prisoner violating his conditional release, when the violation is formally declared by the Board of Commissioners of Paroled Prisoners, or by the board of managers of said reformatory shall thereby forfeit any credit balance; and the amount thereof shall be transferred to the fund in aid of discharged prisoners, as herein provided for fines imposed, except such portion thereof as may be applied to pay the expense of his recapture as hereinbefore provided.

MONTHLY STATEMENT OF RECEIPTS AND EXPENDITURES FOR PRISON INDUSTRIES. — § 111. The agent and warden of each of the State prisons, shall, on the first of each month, make a full detailed statement of all materials, machinery or other property

procured, and of the cost thereof, and of the expenditures made during the last preceding month for manufacturing purposes, together with a statement of all materials then on hand to be manufactured, or in process of manufacture, or manufactured, and of machinery, fixtures or other appurtenances for the purpose of carrying on the labor of the prisoners, and the amount and kinds of work done, and the earnings realized, and the total amount of moneys coming into his hands as such agent and warden during such last preceding month as the proceeds of the labor of the prisoners at such prison, which statement shall be verified by the oath of such agent and warden to be just and true, and shall be by him forwarded to the Superintendent of State Prisons.

NOTE.—Monthly statement of receipts and expenditures for maintenance. See § 47 ante p. 15.

STATEMENT OF MACHINERY, ETC., REQUIRED.— § 112. Such agent and warden shall also on the first day of each month, make an estimate and detailed statement of all materials, machinery, fixtures, tools or other appurtenances or accommodations, and of the cost thereof, which will, in his judgment, be necessary for carrying on the labor of the prisoners at such prison, both for the purposes of production, and of industrial training and education, for the next ensuing month, or which, in his judgment, should be contracted for during such month, which estimate shall be forwarded to the Superintendent of State Prisons, who may revise the same by reducing the amount thereof, and he shall certify that he has carefully examined the same, and that the articles contained in said estimate or in said estimates are so revised by him, are actually required for the use of the prison, and he shall thereupon deliver the said estimate so certified to the Comptroller. (*As amended by Ch. 429, L. 1896.*)

MACHINERY AND MATERIALS FOR PRISON INDUSTRIES, HOW PURCHASED.— § 113. The agents and wardens of the State prisons with the approval of the Superintendent of State Prisons and the manager or other authorities by whatever name known having charge of the penal institutions of the State are authorized within the appropriations which may be placed at their disposal by the State or by the county supporting such institutions to procure and maintain all necessary machinery, tools, apparatus or accommodations needful for the purpose of carrying on and conducting such trades and industries as may be authorized under the provisions of this act. They shall purchase material in manner following: All purchases and contracts for the material to be used in the manufacture of goods in the State prisons and other penal institutions of the State shall be made by advertising for sealed proposals (except when in the judgment of the Superintendent of State Prisons it is for the best interest of the State to purchase the same in the open market). Whenever proposals for furnishing materials have been solicited

the parties responding to such solicitations shall be duly notified of the time and place of opening the bids and may be present either in person or by attorney and a record of each bid shall then and there be made. They shall advertise for said proposals or bids daily for at least two weeks in one newspaper published in the City of Albany and two newspapers published in the City of New York specifying the classes and quantity of material required and furnish bidders on demand with printed schedules giving a full description of all of the materials required with date and place of delivery and all other necessary information. The person offering to furnish said materials upon terms most advantageous to the State, and who will give satisfactory security for the performance thereof (in case immediate delivery is not required) shall receive the contract to furnish said material unless the Superintendent of State Prisons shall deem it to the best interest of the State to decline all proposals and advertise anew.

PURCHASES TO BE INCLUDED IN ESTIMATES.— § 114. The agent and warden of each prison shall make purchases of the articles included in the estimate so certified to the Comptroller, as directed in section one hundred and thirteen, and it shall not be lawful for such agent and warden to make any purchases and contracts on behalf of the State for the industrial purposes of such prison unless such purchases and contracts shall have been included in such estimate filed with the Comptroller. (*As amended by Ch. 429, L. 1896.*)

DEPOSITS BY AGENT AND WARDEN IN BANKS.— § 115. The Comptroller shall designate a bank or banks convenient to each of said prisons for receiving deposits from the agent and warden of such prison of all moneys coming to his hands as proceeds of the labor of the prisoners and of the sales of articles manufactured by them therein. Before any such deposit shall be made by such agent and warden or received by any such bank such bank shall execute and file with the Comptroller a bond in such penal sum, with such sureties and upon such conditions as shall be approved by the Comptroller. The agent and warden of each of said prisons shall deposit, at least once in each week, in the bank or banks so designated by the Comptroller, all the moneys received by him as proceeds of the labor of the prisoners, to his credit as such agent and warden, and shall send to the Comptroller, and also to the Superintendent of State Prisons, weekly, a statement showing the amounts so received and deposited, and when, from whom and for what received, and the days on which such deposits were made, which statement shall be certified by the proper officer of each bank receiving such deposits, and shall also be verified by the oath of such agent and warden, to the effect that the sum so deposited includes all the moneys received by him as the proceeds of the labor of the prisoners in said prison and of the sales of the articles manu-

factured by them during such week and up to the time of the last deposit appearing on such statement. The moneys so deposited by such agent and warden shall be subject to his check or draft only when countersigned by the Comptroller. The Comptroller shall countersign such check or draft only when the same is drawn for the payment of an expenditure included in an estimate approved by the Superintendent of State Prisons. In case the balance of such deposits in any such bank shall at any time, in the judgment of the Comptroller, be in excess of the amount which will be needed to meet the expenses of such prison, the Comptroller shall notify the Treasurer of the State and also the said bank of the amount of such excess, which amount shall be added by such Treasurer to the prison fund in the treasury of the State, and shall be thereafter payable by said bank upon the draft of the said Treasurer only. It shall be the duty of the Comptroller at the commencement of each annual session of the Legislature, to report the financial condition of each of the prisons under the control of the Superintendent of Prisons. Such report shall state the amount and value of unmanufactured material on hand, the amount and value of manufactured goods unsold, the amount and value of goods sold but not paid for and the amount of money remaining on deposit in each bank in which funds are deposited as provided by this section, such losses as may occur from time to time, and also such other information as he shall deem proper relating to the manufacturing industries of the prisons.

UNITED STATES PRISONERS.— § 116. It shall not be lawful for the Superintendent of State Prisons, or the agents and wardens, or managers or superintendents of any of the penal institutions in this State, to hereafter receive or permit to be received therein, any prisoner convicted in the United States courts, held without the State of New York, or in any state other than that of the State of New York. It shall be lawful for the agents and wardens of the State prisons, and the managers of the reformatories of the State to receive prisoners convicted and sentenced in the United States courts in this State, for one year or more, upon proper contracts made for their care and custody, to be approved by the Superintendent of State Prisons; but no prisoners sentenced in United States courts in this State, for one year or more, shall be received in any penal institution in this State, except in State prisons and reformatories as aforesaid. (*Added by Ch. 395, L. 1890, as amended by Ch. 130, L. 1892 and Ch. 429, L. 1896.*)

VIOLATIONS OF PRISON LABOR REGULATIONS.— § 117. Any contract made by the superintendent, agent or warden of any prison, or by any officer or any other authority whatsoever, of any prison, reformatory, penitentiary or other penal institution of this State, in violation of, or contrary to, the provisions of the act hereby amended, or contrary to, or in violation of, chap-

ter twenty-one of the laws of eighteen hundred and eighty-four, shall be null and void. It shall be the duty of any such officer or authorities to furnish to the Attorney-General, upon demand therefor, a true copy, if in writing, and if not, in substance, of any contract made by such officer or authorities, relating in any way to the system of labor adopted, or to the employment, of prisoners in any of said prisons, reformatories, penitentiaries or other penal institutions. Whenever the Attorney-General shall be satisfied that any contract made as aforesaid is contrary to or in violation of this act hereby amended, or of said chapter twenty-one of the laws of eighteen hundred and eighty-four, or that any of the officers or authorities aforesaid have entered into or are engaged in any contract or arrangement for the labor of prisoners, or relating to the system adopted or continued in said institutions, and which contract or arrangement is contrary to or in violation of law as aforesaid, if he shall be of the opinion that the facts require such action, he is hereby authorized to bring an action in the Supreme Court in the name of the People of the State of New York, in any county which he may select, for the purpose of testing the validity of any contract or arrangement made by any of the officers herein named, relating in any way to the system of labor adopted, or the employment of prisoners in any of said prisons, reformatories, penitentiaries or other penal institutions, or to determine the validity of any act or thing done by any officer herein mentioned, which act or thing shall be alleged to have been in violation of the act hereby amended, or of chapter twenty-one of the laws of eighteen hundred and eighty-four. Any party to such contract, agreement or arrangement as aforesaid, or interested in the determination of such action, shall be made defendant, and pending the trial or hearing of the facts alleged, or of any issue made as aforesaid, the court shall, upon notice of the Attorney-General, and upon a petition duly verified showing the making of any contract or arrangement in violation of the provisions of the act hereby amended, or of said chapter twenty-one of the laws of eighteen hundred and eighty-four, or of the doing of any act or thing by any of the parties defendant, in violation of either of said acts, grant an injunction order, restraining the parties named in said order from the further prosecution of the business complained of, or from the further performance of the contract or arrangement claimed to have been entered into as aforesaid, and to restrain and enjoin such officer or officers from the further continuance of any act alleged to be in violation of the act hereby amended, or of the said chapter twenty-one, of the laws of eighteen hundred and eighty-four. And any disobedience of such injunction order shall be punishable as provided by chapter one, title one, article two of the code of civil procedure. And upon any trial had, judgment shall follow the findings of fact made by the court or jury, as in other cases, and with costs,

in the discretion of the court. (*Added by Ch. 559, L. 1890.*)

NOTE.—Ch. 21, L. 1884 referred to in the foregoing section forbid the renewal of any old or the making of any new contract for convict labor. Such chapter is superseded by Art. 111, § 29 of the Constitution and § 97 of the general prison law.

§ 2. (*Ch. 382, L. 1889*) The following acts and parts of acts are hereby repealed, namely:

Chapter two hundred and ninety-four of the laws of one thousand eight hundred and forty-eight, chapters one hundred and thirty-two and one hundred and thirty-three of the laws of one thousand eight hundred and forty-nine, chapters fifty-eight and two hundred and forty of the laws of one thousand eight hundred and fifty-four, chapters three hundred and thirty-four, four hundred and fifty-six and five hundred and fifty-two of the laws of one thousand eight hundred and fifty-five, chapter ninety-four of the laws of one thousand eight hundred and fifty-seven, chapters two hundred and eighty-three and three hundred and ninety-nine of the laws of one thousand eight hundred and sixty, chapter four hundred and three of the laws of one thousand eight hundred and sixty-two, chapter four hundred and sixty-five of the laws of one thousand eight hundred and sixty-three, chapter forty-three of the laws of one thousand eight hundred and sixty-five, chapters three hundred and thirty and four hundred and fifty-eight of the laws of one thousand eight hundred and sixty-six, chapter eight hundred and sixty-nine of the laws of one thousand eight hundred and sixty-nine, chapter four hundred and fifty-one of the laws of one thousand eight hundred and seventy-four, chapter three hundred and thirty-nine of the laws of one thousand eight hundred and seventy-six, chapters twenty-four, one hundred and seven, two hundred and fifty-three and three hundred and twelve of the laws of one thousand eight hundred and seventy-seven, chapter three hundred and seventy-three of the laws of one thousand eight hundred and seventy-nine, chapter eighty-three of the laws of one thousand eight hundred and eighty-three, chapter two hundred and eleven of the laws of one thousand eight hundred and eighty-four, chapter four hundred and eighty-five of the laws of one thousand eight hundred and eighty-six, and chapters four hundred and forty and five hundred and eighty-six of the laws of one thousand eight hundred and eighty-eight. But the repeal of any of the acts or parts of acts aforesaid shall not affect the validity of any act heretofore done under, or in pursuance thereof, nor shall the repeal of any of such acts which repeal previous acts be held to restore such previous acts.

LABOR—HOW CONDUCTED IN CERTAIN PRISONS. § 3. The Managers of the New York State Reformatory at Elmira, and the managing authorities of all the penitentiaries or other penal institutions in this State, are hereby authorized and directed to conduct the labor of prisoners therein, respectively, in like manner and under like restrictions, as labor is authorized by sections ninety-seven and ninety-eight of this act, as hereby amended, to be conducted in State prisons. (*As amended by Ch. 429, L. 1896.*)

NOTE.—See § 97 and 98 on page 33.

§ 4. This section was temporary—it made an appropriation.

NOTE.—§ 4 of Ch. 429, L. 1896, which chapter amended several sections of the foregoing, reads as follows: "All laws and parts of laws inconsistent with any of the provisions of this act are hereby repealed."

Title III.

Revised Statutes, Part 4. Chapter 3.

GENERAL PROVISIONS APPLICABLE TO ALL THE PRISONS TREATED OF IN THIS CHAPTER.

NOTE.—The omitted sections of this title were temporary or have been superseded.

- Section 145. Imprisonment of criminals convicted of crime against the United States.
147. Penalty for neglect or violation of duty.
148. Exemption of prison officials from jury or military duty.
149. Females not to be whipped.
150. Convicts may be brought before court on writ of habeas corpus to testify.
151. Convict a competent witness in the trial of any offense committed whilst in prison.
152. Liquor not to be sold or brought into prison.
153. Permits to use liquor—when granted.
154. Penalty for selling or bringing liquor into prison.
155. Prisoners may be brought before court as witnesses.
156. Escape of United States prisoners.
157. Removing prisoner for trial.
158. Habeas corpus to bring prisoner into court for arraignment or trial.
159. Persons authorized to visit county and State prisons.

IMPRISONMENT OF CRIMINALS CONVICTED OF CRIME AGAINST THE UNITED STATES.— § 145. It shall be the duty of the respective keepers of each of the county and State prisons, to receive into the said prisons and safely to keep therein, subject to the discipline of such prison, any criminal convicted of any offence against the United States, sentenced to imprisonment therein, by any court of the United States, sitting within this State, until such sentence be executed, or until such convict shall be discharged by due course of law; the United States supporting such convict, and paying the expenses attendant upon the execution of such sentence. (*Ch. 460, L. 1847, Title 3.*)

NOTE.—United States prisoners convicted outside this State not to be received. See § 116, ante p. 41.

PENALTY FOR NEGLECT OR VIOLATION OF DUTY.— § 147. The keeper of any prison to whom any such prisoner may have been committed, shall be liable to the like penalties and punishment, for any neglect or violation of duty in respect to the custody of such prisoner, as if such prisoner had been committed by virtue of a commitment or conviction under the authority of this State. (*Id.*)

EXEMPTION OF KEEPERS, ETC.— § 148. The keeper of every county or State prison, and all persons employed in any such

prison, shall be exempted during their continuance in office, from serving on juries and from military duty. (*Id.*)

NOTE.—This section is superseded by § 1030, Civil Code. “Each of the following persons although qualified, is entitled to exemption from service, as a trial juror, upon his claiming exemption therefrom:

3. The agent or warden of the State prison, the keeper of a county jail, or a person actually employed in a State prison or county jail, and the keeper of every almshouse.”

FEMALES NOT TO BE WHIPPED.— § 149. No female confined in any prison shall be punished by whipping, for any misconduct in such prison. (*Id.*)

CONVICTS MAY BE BROUGHT BEFORE COURT ON WRIT OF HABEAS CORPUS TO TESTIFY.— § 150. Whenever any convict confined in any county or State prison shall be considered an important witness in behalf of the People in this State upon any criminal prosecution against any other convict, or against any person indicted for a felony, by the district attorney prosecuting the same, it shall be the duty of any justice of the Supreme Court, in his discretion, upon the affidavit of such district attorney, to grant a habeas corpus for the purpose of bringing such person before the proper court to testify on such prosecution. (*Id. as amended by Ch. 416, L. 1880, and by Ch. 267, L. 1885.*)

CONVICT A COMPETENT WITNESS IN THE TRIAL OF ANY OFFENCE COMMITTED WHILST IN PRISON.— § 151. Such convict may be examined on such trial and shall be considered a competent witness against any fellow prisoner, (or person indicted for a felony) for any offense actually committed whilst in prison, and whilst the witness so offered shall have been confined in the prison in which such offence shall have been committed, or for any offence committed prior to the confinement of such witness. (*Id. as amended by Ch. 416, L. 1880, and by Ch. 267, L. 1885.*)

NOTE.—The foregoing sections 150-151 are not repealed, but are superseded by sections 2008 and 2010 of the Civil Code on the subject. Certain qualifications are made in § 2011 which reads as follows:

“The last three sections qualified:

“A writ shall not be issued, by virtue of either of the last three sections, to bring up a prisoner sentenced to death. Nor shall it be issued to bring up a prisoner confined under any other sentence for a felony; except where the application is made, in behalf of the People, to bring him up as a witness on the trial of an indictment, and then only by and in the discretion of a justice of the Supreme Court, upon such notice to the district attorney of the county wherein the prisoner was convicted, and upon such terms and conditions, and under such regulations, as the judge prescribes.”

LIQUORS NOT TO BE SOLD OR BROUGHT INTO PRISONS. § 152. No spirituous or fermented liquors shall, on any pretence whatever, be sold within any county or State prison, nor shall any kind of spirituous or fermented liquor be brought into any county prison for the use of any convict confined therein, without a written permit, signed by the physician to such prison, specifying the quantity and quality of the liquor which may be furnished to any convict, the name of the prisoner for whom,

and the time when the same may be furnished, except for the ordinary hospital supply of the State prisons, which permit shall be delivered to and kept by the keeper of the prison. (*Id.*)

PERMITS, WHEN GRANTED.— § 153. No permit shall be granted, unless it shall satisfactorily appear to such physician that the liquor allowed to be furnished is necessary for the health of the prisoner for whose use it is permitted, which shall be stated in such permit. (*Id.*)

PENALTY FOR SELLING OR BRINGING LIQUOR INTO PRISONS.— § 154. Any person who shall sell, or bring into any of said prisons any spirituous or fermented liquor, contrary to the foregoing provisions, and every keeper or other officer employed in or about any such prison, who shall suffer any spirituous or other liquor to be sold or used therein, contrary to the foregoing provisions, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to imprisonment, not exceeding one year, or to a fine not exceeding two hundred and fifty dollars, or both, in the discretion of the court; and every sheriff or other officer so convicted, shall forfeit his office. (*Id.*)

NOTE.—The foregoing sections 152, 153 and 154 are superseded by provisions of the Liquor Tax Law. By § 24 of such law traffic in liquor is prohibited within any penal institution. § 30 reads:

“No corporation, association, copartnership or person, whether taxed under this act or not, shall sell, deliver or give away or cause or permit or procure to be sold, delivered or given away any liquors to:

“6. To any person confined in or committed to a State prison, jail, penitentiary, house of refuge, reformatory, protectory, industrial school, asylum or State hospital, or any inmate of a poor house, or any patient in any colony or institution established for the care or treatment of epileptics, except upon a written prescription from a physician to such institution, specifying the cause for which such prescription is given, the quantity and kind of liquor which is to be furnished, the name of the person for whom and the time or times at which the same shall be furnished. Such prescription shall not be made unless the physician is satisfied that the liquor furnished is necessary for the health of the person for whose use it is prescribed, and that fact must be stated in the prescription.”

PRISONERS MAY BE BROUGHT BEFORE COURTS AS WITNESSES.— § 155. Whenever it shall appear to the court in which an indictment is pending, and to be tried against any person for any offense committed by him while imprisoned in any county prison, or any one of the State prisons, on the person of any other individual confined in such jail or State prison, that any other person confined in any county prison, or in any of the State prisons, is an important witness in behalf of the person so indicted, such court is hereby authorized to grant a writ of habeas corpus for the purpose of bringing such prisoner before such court to testify upon the trial of such indictment, in behalf of the party making the application. (*Id.*)

NOTE.—This section is also superseded by § § 2008-13 of the Code of Civil Procedure.

ESCAPE OF UNITED STATES PRISONER; PENALTY.— § 156. In case any prisoner committed to either of the prisons by a

court of the United States, or by the President of the United States, shall escape from the custody of any keeper to whom such convict may have been so committed, he shall be liable to the like punishment as if he had been committed by virtue of a commitment or conviction under the authority of this State; and any expenses incurred in searching for or apprehending said convict shall be a proper charge against the Government of the United States. (*Id. as amended by Ch. 399, L. 1860.*)

NOTE.—Officer permitting escape guilty of misdemeanor. Penal Code § 115. See post.

REMOVING PRISONERS FOR TRIAL.— § 157. The court in which any indictment is pending against any person imprisoned on conviction of a crime in any county jail or State prison, for an offence committed during such imprisonment, is hereby authorized to issue a writ of habeas corpus for the purpose of bringing the individual so indicted before the court for arraignment or trial on such indictment. (*Id.*)

HABEAS CORPUS FOR THAT PURPOSE.— § 158. The court in which any indictment is pending for a felony, against any person imprisoned on conviction of a crime, in any county jail or State prison, is hereby authorized to issue a habeas corpus for the purpose of bringing the individual so indicted before the court for arraignment or trial, on such indictment. (*Id.*)

NOTE.—§ § 157-158 are superseded by § 298 Code of Criminal Procedure.

PERSONS AUTHORIZED TO VISIT COUNTY AND STATE PRISONS.— § 159. The following persons shall be authorized to visit at pleasure all county and State prisons: The Governor and Lieutenant-Governor, Secretary of State, Comptroller and Attorney-General, members of the Legislature, judges of the Court of Appeals, Supreme Court and county judges, district attorneys and every minister of the gospel having charge of a congregation in the town wherein any such prison is situated. No other person not otherwise authorized by law shall be permitted to enter the rooms of a county prison in which convicts are confined, unless under such regulations as the sheriff of the county shall prescribe, nor to enter a State prison except under such regulations as the inspectors shall prescribe.

Additional State Prisons and Hospitals for Insane Criminals.

State Prison for Women. Chapter 306, Laws of 1893.

AN ACT TO ESTABLISH A STATE PRISON FOR WOMEN.

- Section 1. Establishment of State Prison for Women.
2. Agent and warden.
 3. Other officers and employees.
 4. Salary of certain officers.
 5. Residence and maintenance of matron.
 6. Salaries.
 7. Physician; chaplain.
 8. Bond of store-keeper.
 9. Commitment of women; notice; transportation; attendants.
 10. Transfers.
 11. Children of convicts.
 12. Department of Auburn Prison.
 13. Seperate accounts and records.

ESTABLISHMENT OF STATE PRISON FOR WOMEN.— § 1. The buildings on the prison grounds at Auburn, recently known as the Asylum for Insane Criminals, shall be known and designated as a "State Prison for Women," and shall be maintained as such for the security and reformation of women convicts in this State.

AGENT AND WARDEN.— § 2. The agent and warden of Auburn Prison, under the direction of the Superintendent of State Prisons, shall have the like management and control of said prison and the inmates thereof that is now conferred upon him, by law over the Auburn Prison and the prisoners confined therein.

OTHER OFFICERS AND EMPLOYEES.— § 3. The Superintendent of State Prisons shall appoint a matron of said State Prison for Women, and he may remove her from office, whenever, in his

judgment, the public interest shall so require. He shall designate such number of assistant matrons, not exceeding one for each twenty prisoners, and such number of guards not exceeding four, as he shall deem necessary for the safe keeping and improvement of the prisoners and the maintenance of discipline. Such assistant matrons and guards shall be appointed by the agent and warden of the Auburn Prison, with the approval of the Superintendent of State Prisons. The agent and warden shall also have power to remove the assistant matrons, guards and other employees so appointed by him.

SALARY OF CERTAIN OFFICERS.— § 4. The salary of the matron shall be fixed by the Superintendent of State Prisons, but shall not exceed twelve hundred dollars per annum. Such agent and warden shall appoint a store-keeper of said prison, who shall have charge of the stores and perform the like duties in the said Prison for Women that are now performed by the storekeeper in the Auburn Prison, and also such other duties as the agent and warden may direct.

RESIDENCE AND MAINTENANCE OF MATRON.— § 5. The matron shall be allowed rations for herself from the prison stores, and shall reside in the house connected with the said Prison for Women, and shall be provided with proper furniture, fuel and lights.

SALARIES.— § 6. Each assistant matron shall board and lodge in the State Prison and shall receive as compensation, in addition to such board and lodging, not to exceed the sum of three hundred dollars per annum. The store-keeper shall receive a salary not to exceed one thousand dollars per annum. Each guard shall receive a salary not to exceed annually six hundred dollars. Such salaries shall be paid monthly and shall be fixed and rated by the Superintendent of State Prisons.

PHYSICIAN; CHAPLAIN.— § 7. The physician and chaplain respectively of Auburn Prison shall be the physician and chaplain of said State Prison for Women, and shall perform the duties appertaining to said respective offices thereat, and no additional compensation shall be allowed or paid to them for the same.

BOND OF STORE-KEEPER.— § 8. The store-keeper of said prison shall, before entering on the duties of his office, execute and file in the office of the Comptroller of this State, a bond to the people of the State of New York, with sufficient sureties to be approved by the Superintendent of State Prisons, in the penal sum of twenty-five hundred dollars, conditioned for the faithful performance of his duties according to law.

COMMITMENT OF WOMEN; NOTICE; TRANSPORTATION; ATTENDANTS.— § 9. On and after the passage of this act, any woman over the age of sixteen years who shall be convicted of felony

in any of the courts of this State, shall, when the sentence imposed be one year or more, be sentenced to imprisonment in the State Prison for Women. The clerk of the court imposing such sentence shall immediately notify the agent and warden of the Auburn Prison thereof, and such agent and warden shall cause such convict to be transported in the company of at least one other woman to such State Prison for Women, and the expenses of such transportation shall be paid as a part of the expenses of the maintenance of the prison.

NOTE.—Penal Code § 698—Women convicted of felony to be sentenced to State Prison for Women.

TRANSFERS. — § 10. Within thirty days after the passage of this act, every woman convict imprisoned under conviction of a felony in any penitentiary shall be removed from such penitentiary to the State Prison for Women at Auburn, and shall be kept thereat to serve the unexpired balance of her term, in the same manner as if the said woman prisoner had been sentenced originally thereto, and it shall be the duty of the said Superintendent of State Prisons to cause to be removed from all the county penitentiaries in this State, within sixty days after the passage of this act, all of the said women prisoners therein. The Comptroller of the State shall not allow or pay any board or other expense of keeping any such woman prisoner in any penitentiary after the sixtieth day after the passage of this act. All necessary expenses for the transfer of said prisoners shall be deemed a part of the current expenses of Auburn Prison, and the manner of such transfer shall be under such escort or guard, or by such officer or officers, as the Superintendent of State Prisons shall direct.

CHILDREN OF CONVICTS. — § 11. In case any woman committed to said prison shall, at the time of said commitment, be the mother of a nursing child in her care, under one year of age, or be pregnant with child, which shall be born after such commitment, such child may accompany its mother and remain in said prison until such time as, in the opinion of the physician, such child can be properly removed therefrom and suitably provided for elsewhere; and in case such woman, at the time of such commitment, shall be the mother of, and have under her exclusive care a child or children more than one year of age, and who otherwise might be left without proper care or guardianship, it shall be the duty of such court so committing said woman, to cause such child or children to be committed to such asylum as may be provided by law for such purposes, or to the care and custody of some relative or proper person willing to assume such care.

NOTE.—This (11) section is practically superseded by section 1, Ch. 547, L. of 1904. See post p. 70.

DEPARTMENT OF AUBURN PRISON. — § 12. For the purposes of the government and management of such State Prison for Women, other than as provided for by this act, such State

Prison for Women shall be deemed a department of the Auburn Prison.

SEPARATE ACCOUNTS AND RECORDS. — § 13. The accounts and records of the State Prison for Women shall be kept separate and distinct from those of the Auburn Prison.

§ 14. This act shall take effect immediately.

Eastern New York Reformatory.

Chapter 336, Laws of 1892.

AN ACT TO ESTABLISH THE EASTERN NEW YORK REFORMATORY,
AND FOR APPOINTMENT OF COMMISSIONERS TO SECURE
A SITE THEREFOR.

ESTABLISHMENT. — § 1. There is hereby established a State institution to be called the Eastern New York Reformatory, to be located in Ulster County of this State, upon land to be secured by the State as hereinafter provided, and to be governed by a board of managers hereafter to be appointed for the care, confinement, discipline and reformation of such convicted criminals as may be sentenced thereto by courts of justice within the limits of such counties or districts as may hereafter be designated by law.

NOTE.—The remainder of this act is temporary.

Chapters 299, L. 1894 and 812, L. 1895, are omitted as temporary.

Chapter 348, Laws of 1900.

AN ACT TO PROVIDE FOR THE ORGANIZATION, MANAGEMENT
AND CONTROL OF THE EASTERN NEW YORK REFORMATORY,
AND MAKING AN APPROPRIATION THEREFOR.

- Section 1. Management of reformatory.
2. Transfer of prisoners from New York State Reformatory—
parole of prisoners—Board of Parole.
3. Transfer of prisoners from State prisons.
4. Officers.
5. Provisions of Revised Statutes applicable.

MANAGEMENT OF REFORMATORY. — § 1. From and after the passage of this act the Superintendent of State Prisons shall have the superintendence, management and control of the Eastern New York Reformatory now in process of construction at Napanoch, in Ulster County, and he shall also have all the powers and perform all the duties heretofore conferred and imposed

upon the building commissioners for such reformatory, except that all contracts heretofore entered into by said commissioners and not as yet completed shall continue under their supervision and direction. Upon the completion of said contracts the terms of the said commissioners shall cease and determine, and all unexpended appropriations for the erection, construction, equipment and maintenance of the said reformatory, or for any other purpose in connection therewith, shall be expended under the direction of the Superintendent of State Prisons, unless the acts making such appropriations specifically provide that they shall be expended under the direction of the State Architect.

TRANSFER OF PRISONERS FROM NEW YORK STATE REFORMATORY—PAROLE OF PRISONERS—BOARD OF PAROLE.— § 2. When the north wing of the said Eastern New York Reformatory shall be prepared and equipped for the reception of prisoners, the Superintendent of State Prisons shall certify such fact to the Board of Managers of the New York State Reformatory, who may, in its discretion, transfer not to exceed one hundred and fifty of the inmates thereof to the said Eastern New York Reformatory; and upon the completion of the south wing thereof an additional one hundred and fifty inmates from the Elmira Reformatory may be similarly transferred. The warden of the Eastern New York Reformatory shall receive and detain the prisoners so transferred in accordance with the terms of their sentences, and they may be paroled and discharged as are prisoners confined in the New York State Reformatory, except that the Superintendent of State Prisons, the president of the Board of Managers of the New York State Reformatory, and the warden of the Eastern New York Reformatory, shall constitute a board of parole for the purpose of paroling and discharging such prisoners, which board shall make rules for such parole and discharge not inconsistent with law, and in general conformity with the rules as to paroles and discharges made by the Board of Managers of the New York State Reformatory and in force in that institution.

NOTE.—The Board of Parole established by this section was abolished by Ch. 260, L. 1901, amending § 75 of the general prison law. See ante p. 27

TRANSFER OF PRISONERS FROM STATE PRISONS.— § 3. The Superintendent of State Prisons may transfer prisoners from any of the several State prisons to the Eastern New York Reformatory, and the warden thereof shall receive and detain such prisoners in accordance with the terms of their sentence. If such sentences are for fixed terms they shall be subject to the provisions of law governing commutation of sentence for good conduct as provided by chapter twenty-one of the laws of eighteen hundred and eighty-six. If such prisoners are confined under indeterminate sentences they may be paroled and discharged as are prisoners confined under like sentences in the State prisons. The Superintendent of State Prisons may also,

in his discretion, transfer prisoners from the said reformatory to either of the State prisons. (*As amended by Ch. 388, L. 1901, and Ch. 425, L. 1904.*)

OFFICERS. — § 4. The Superintendent of State Prisons may transfer officers from any of the State prisons to the same positions in the Eastern New York Reformatory for temporary or permanent service.

PROVISIONS OF REVISED STATUTES APPLICABLE. — § 5. All the provisions of title two of chapter three of part four of the Revised Statutes relating to State prisons shall, except so far as they are inconsistent with the terms of this act, apply to the organization, superintendence, management and control of the Eastern New York Reformatory, its officials, employees, and inmates as fully and with the same effect as they now apply to the State prisons, their officials, employees and inmates, and no laws or parts of laws relating to reformatories and inconsistent with the provisions of this act, or with the provisions of said title two of chapter three of part four of the Revised Statutes shall apply to the said Eastern New York Reformatory, its officials, employees or inmates.

NOTE. — § 6 made an approbation for construction.

§ 7. This act shall take effect immediately.

Matteawan State Hospital for Insane Criminals.

From the Insanity Law.

Chapter 545, Laws of 1896.

SECTIONS 90-104 INCLUSIVE.

- Section 90. Establishment and purposes of the Matteawan State Hospital.
- 91. Medical superintendent.
- Section 92. Medical superintendent as treasurer of the hospital.
- 93. Salaries of resident officers.
- 94. Powers and duties of medical superintendent and assistants.
- 95. Monthly estimates.
- 96. Power of removal.
- 97. Transfer of insane convicts to the Matteawan State Hospital.
- 98. Disposal of insane convicts after expiration of term of imprisonment.
- 99. Convicts on recovery to be transferred to prison.
- 100. Certificate of conviction to be delivered to medical superintendent and copy filed.
- 101. Transfers from State hospitals to Matteawan State Hospital.
- 102. Authority to recover for the support of patients.
- 103. Tenure of office.
- 104. Communications with patients.

ESTABLISHMENT AND PURPOSES OF THE MATTEAWAN STATE HOSPITAL.— § 90. The grounds, buildings and property located at Matteawan, in the County of Dutchess, and used for the purposes of the hospital for insane criminals, are hereby declared to be the Matteawan State Hospital, to be used for the purpose of holding in custody and caring for such insane persons as may be committed to the said institution by courts of criminal jurisdiction, or transferred thereto by the State Commission in Lunacy, and for such convicted persons who may be declared insane while undergoing sentence of one year or less or for a misdemeanor at any of the various penal institutions of the State, and for all female convicts becoming insane while undergoing sentence. (*As amended by Ch. 525, L. 1904*).

MEDICAL SUPERINTENDENT.— § 91. The Superintendent of State Prisons shall, whenever there is a vacancy, appoint a medical superintendent for the Matteawan State Hospital, who shall be a well educated physician of at least five years' actual experience in a hospital for the care and treatment of the insane. The Superintendent of State Prisons, subject to the approval of the State Commission in Lunacy, shall make by-laws and regulations for the government of the hospital and the management of its affairs.

MEDICAL SUPERINTENDENT AS TREASURER OF THE HOSPITAL.— § 92. The medical superintendent shall be the treasurer of the hospital, and before entering on his duties, shall file with the Comptroller of the State his undertaking to the people, with sureties to be approved by the Superintendent of State Prisons, to the effect that he will faithfully perform his trust as such treasurer. He shall have the custody of the moneys, securities and obligations belonging to the hospital, and shall open with some bank, in the vicinity of the hospital, to be selected with the approval of the Comptroller, an account in his name as such medical superintendent, and immediately deposit in such bank all moneys received by him as such medical superintendent and treasurer, and shall draw therefrom only for the use of the hospital and in the manner provided by the by-laws and upon the order of the steward, specifying the object of each payment. He shall keep a full and accurate account of the receipts and payments, as directed by the by-laws, and of such other matters as the Superintendent of State Prisons and the State Commission in Lunacy may prescribe, and balance all his accounts, annually, on the thirtieth day of September, and within ten days thereafter deliver to the Superintendent of State Prisons, a statement thereof and an abstract of such receipts and payments for the past year. His books and vouchers shall at all times be open to the inspection of the Superintendent of State Prisons and the Commission, and they may at any time require of him a statement of his accounts and of the funds and property in his custody.

SALARIES OF RESIDENT OFFICERS.— § 93. The Superintendent of State Prisons shall, from time to time, determine the annual salaries and allowances of the resident officers, provided they do not in the aggregate exceed twelve thousand dollars; and the same shall be paid quarterly, on the last days of March, June, September and December, by the Treasurer of the State, on the warrant of the Comptroller, out of any moneys in the treasury not otherwise appropriated, to the medical superintendent, on his presenting a bill of particulars thereof signed by the steward, and properly certified by such medical superintendent.

POWERS AND DUTIES OF MEDICAL SUPERINTENDENT AND ASSISTANTS.— § 94. The medical superintendent shall be the chief executive officer of the hospital and shall:

1. Have the general superintendence of the building and grounds, together with their furniture, fixtures and stock, and the direction and control of all persons therein, subject to the rules and regulations adopted by the Superintendent of State Prisons, with power to assign their respective duties.

2. Appoint such number of assistant physicians, not to exceed one for each two hundred inmates or fraction thereof, as

the necessities of the institution may require, also a steward and matron, all of whom and the medical superintendent, shall reside in the hospital, and shall be known as the resident officers thereof.

3. Appoint such and so many attendants and other subordinate employees as he may think proper and necessary for the economical and efficient administration of the affairs of the hospital, and prescribe their several duties and places, and fix, with the approval of the Superintendent of State Prisons, their compensation, and discharge any of them at his sole discretion: but in every case of discharge, so occurring, he shall, forthwith, enter the same with reasons therefor, under an appropriate heading, in one of the record books of the hospital.

4. Give, from time to time, such orders and instructions as he may deem best calculated to insure good conduct, fidelity and economy in every department of labor and expense.

5. Maintain salutary discipline among all who are employed by the institution, and enforce strict compliance with all instructions and orders given by him, and uniform obedience to all the rules and regulations of the hospital.

6. Cause full and fair accounts and records of all his doings, and of the entire business and operations of the institution to be kept regularly, from day to day, in books provided for that purpose, in the manner and extent prescribed in the by-laws.

7. See that all accounts and records are fully made up to the last day of September in each year, and present the principal facts and results, with his report thereon, to the Superintendent of State Prisons, within forty days thereafter. The resident officers, before entering upon their duties as such, shall severally take and file in the office of the Secretary of State, the constitutional oath of office. The first assistant physician shall perform the duties and be subject to the responsibilities of the superintendent in his sickness or absence. The steward may personally purchase any supplies for the use of such hospital, but only in the name of the medical superintendent, and in each instance by his direction and not otherwise.

MONTHLY ESTIMATES. — § 95. The medical superintendent shall cause an estimate to be made monthly, in accordance with forms to be approved by the State Comptroller, of all moneys necessary for the support and maintenance of the hospital, which may be required to supplement the deficiencies in the earnings thereof. Such estimate shall be submitted to and examined by the Superintendent of State Prisons, who, if he is satisfied that it is correct, and that the articles named therein are actually needed for the support and maintenance of the hospital, shall certify to the same, and on production of such estimate so certified, to the Comptroller, he shall draw his warrant on the State Treasurer for the amount thereof, and the

State Treasurer shall pay such amount to the medical superintendent of the hospital, out of any money in the treasury appropriated to the support of such hospital.

POWER OF REMOVAL.— § 96. The Superintendent of State Prisons may remove the medical superintendent, for cause shown, and an opportunity to such superintendent to be heard thereon, and such officer shall not be reappointed to the office of medical superintendent, or to any other position in said hospital.

TRANSFER OF INSANE CONVICTS TO THE MATTEAWAN STATE HOSPITAL.— § 97. Whenever the physician of the State Prison for Women, any county penitentiary or workhouse, any reformatory for women, or of the State Reformatory or any other penal institutions, shall report in writing to the warden or other officer in charge thereof, that any person undergoing a sentence of one year or less or convicted of a misdemeanor, or any female convict confined therein is, in his opinion, insane, such warden or other officer shall apply to a judge of a court of record to cause an examination to be made of such person by two legally qualified examiners in lunacy, other than a physician connected with such State prison, penitentiary, reformatory or penal institution. Such examiners shall be designated by the judge to whom the application is made. Such examiners, if satisfied, after a personal examination, that such convict is insane, shall make a certificate to such effect in the form and manner prescribed by this chapter for the commitment of insane persons to State hospitals. Such warden or other person in charge shall apply to a judge of a court of record for an order transferring such convict to the Matteawan State Hospital, accompanying such application with such certificate of lunacy. Such judge, if satisfied that such convict is insane, shall issue such order of transfer, and such warden or other officer in charge shall thereupon cause such convict to be transferred to the Matteawan State Hospital and delivered to the medical superintendent thereof. At the time of such transfer, the certificate in lunacy and order of transfer shall be presented to such medical superintendent. Such insane convict shall be received into such hospital and retained there until legally discharged. Such warden or other officer in charge, before transferring such insane convict, shall see that he is bodily clean, and is provided with a new suit of clothing similar to that furnished to convicts on their discharge from prison. The costs necessarily incurred in determining the question of insanity, including the fees of the medical examiners, shall be a charge upon the State or the municipality at whose expense the institution from which the transfer is made or sought to be made, is maintained. (*As amended by Ch. 525, L. 1904.*)

DISPOSAL OF INSANE CONVICTS AFTER EXPIRATION OF TERM OF IMPRISONMENT.— § 98. Whenever any convict in the Mat-

teawan State Hospital, under and by virtue of this act, shall continue to be insane at the expiration of the term for which he was sentenced, he may be retained therein until he has recovered or is otherwise legally discharged. The medical superintendent of such hospital may discharge and deliver any patient whose sentence has expired, and who is still insane, but who, in the opinion of the superintendent is reasonably safe to be at large, to his relatives or friends who are able and willing to comfortably maintain him, without further public charge; and such patient may, in the discretion of the medical superintendent, be provided with the whole or a portion of such allowances as are hereinafter granted to recovered convicts. Whenever any convict, who, by reason of his insanity, shall have been retained beyond the date of the expiration of his sentence shall recover, he may be discharged by the medical superintendent, and such convict shall be entitled to ten dollars in money, suitable clothing and a railroad ticket to the county of his conviction or to such other place as he may designate at no greater distance. Similar allowances shall be made to patients committed by order of a court and who may be discharged. Any convict in the Matteawan State Hospital, whose term of imprisonment has expired by commutation or otherwise, and who is not recovered may, upon an order of the Commission in Lunacy, be transferred to any institution for the insane.

CONVICTS ON RECOVERY TO BE TRANSFERRED TO PRISON. — § 99. Whenever any convict, who shall have been confined in such hospital as an insane person, shall have recovered before the expiration of his sentence, and the medical superintendent thereof shall so certify in writing to the agent and warden, or other officer in charge of the institution, from which such convict was received or to which the Superintendent of State Prisons may direct that he be transferred, such convict shall forthwith be transferred to the institution from which he came by the medical superintendent of the hospital, or, if received from one of the State prisons, to such State prison as the Superintendent of State Prisons may direct; and the agent and warden or other officer in charge of such institution shall receive such convict into such institution, and shall, in all respects, treat him as when originally sentenced to imprisonment. Any inmate not a convict, held upon an order of a court or judge, in a criminal proceeding, may be discharged therefrom, upon the superintendent's certificate of recovery, made to and approved by such court or judge.

NOTE.— When a defendant in a criminal proceeding who is held in a "State lunatic asylum" upon order of the court, becomes sane, see Code of Criminal Procedure § 661.

CERTIFICATE OF CONVICTION TO BE DELIVERED TO MEDICAL SUPERINTENDENT AND COPY FILED.— § 100. Whenever any convict shall be transferred to the Matteawan State Hospital,

the agent and warden or other officer in charge of the prison, penitentiary, reformatory or other penal institution from which such convict is transferred, shall cause a correct copy of the original certificate of conviction of such convict to be filed in the office of the warden or officer in charge, and shall deliver the original certificate to the medical superintendent of such hospital; and whenever any such convict shall be transferred to any penal institution from such hospital, as hereinbefore provided, the medical superintendent shall deliver to the agent and warden, or other officer in charge of such institution, such original certificate, which shall be filed in the clerk's office of the same.

TRANSFERS FROM STATE HOSPITALS TO MATTEAWAN STATE HOSPITAL. — § 101. The commission may, by order in writing, transfer to the Matteawan State Hospital, any insane inmate of a State hospital committed thereto upon the order of a court of criminal jurisdiction or of a judge or justice of such a court; or any patient who has previously been sentenced to a term of imprisonment in any penal institution, and who still manifests criminal tendencies or any such patient who has previously been an inmate of the Matteawan State Hospital. From and after October first, nineteen hundred and four, all persons then inmates of the Matteawan State Hospital, and all persons thereafter committed to its custody, shall be a charge upon State. (*As amended by Ch. 260, L. 1899, Ch. 380, L. 1900, and Ch. 525, L. 1904.*)

AUTHORITY TO RECOVER FOR THE SUPPORT OF PATIENTS. — § 102. The medical superintendent of the hospital is hereby authorized to recover for the support of any patient therein, chargeable under the law to either counties or penitentiaries, in an action to be brought, in the name of the People of the State of New York, against the county or penitentiary, for the maintenance of said patient.

TENURE OF OFFICE. — § 103. Nothing in this article shall be construed to affect the tenure of office of any of the present officers of the hospital.

COMMUNICATIONS WITH PATIENTS. — § 104. No person not authorized by law or by written permission from the Superintendent of State Prisons shall visit the Matteawan State Hospital, or communicate with any patient therein without the consent of the medical superintendent; nor without such consent shall any person bring into or convey out of the Matteawan State Hospital any letter or writing to or from any patient; nor shall any letter or writing be delivered to a patient, or if written by a patient, be sent from the Matteawan State Hospital until the same shall have been examined and read by the medical superintendent or some other officer of the hospital duly authorized by the medical superintendent. But communications

addressed by such patient to the county judge or district attorney of the county from which he was sentenced, shall be forwarded, after examination by such medical superintendent, to their destination.

Dannemora Hospital for Insane Convicts.

Chapter 520. Laws of 1899.

AN ACT IN RELATION TO THE MANAGEMENT OF THE DANNE- MORA HOSPITAL FOR INSANE CONVICTS AND THE CARE AND CUSTODY OF THE INMATES THEREOF.

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| Section | 1. Establishment and purposes of the Dannemora Hospital. |
| | 2. Medical superintendent. |
| | 3. Medical superintendent as treasurer of the hospital. |
| | 4. Salaries of resident officers. |
| | 5. Powers and duties of medical superintendent and assistants. |
| | 6. Monthly estimates. |
| | 7. Power of removal. |
| | 8. Transfer of insane convicts from Matteawan State Hospital to the Dannemora Hospital. |
| | 9. Transfer of prisoners in State prisons, reformatories and penitentiaries to Dannemora Hospital. |
| | 10. Retention of insane convicts after the expiration of their terms. |
| | 11. Discharge of insane convicts after expiration of terms. |
| | 12. Convicts on recovery to be transferred to prison. |
| | 13. Certificate of conviction to be delivered to medical superintendent and copy filed. |
| | 14. Communications with patients. |

§ 1. ESTABLISHMENT AND PURPOSES OF THE DANNEMORA HOSPITAL.—The grounds and property located at Dannemora, in the County of Clinton and the buildings erected thereon, when completed, shall be designated as the Dannemora Hospital for Insane Convicts. Such hospital, when ready for occupancy, shall be used for the purpose of confining and caring for such male prisoners as are declared insane while confined in a State prison or reformatory, or while serving a sentence of more than one year in a penitentiary.

§ 2. MEDICAL SUPERINTENDENT.—When the Dannemora Hospital for Insane Convicts has sufficiently progressed to warrant it, the Superintendent of State Prisons shall appoint a medical superintendent therefor, who shall be a well educated physician of at least five years' actual experience as a State prison physician or in a hospital for the care and treatment of the insane. A vacancy in the office of such superintendent shall be filled in like manner.

The Superintendent of State Prisons shall make by-laws and rules and regulations for the government of the hospital and the management of its affairs.

§ 3. MEDICAL SUPERINTENDENT AS TREASURER OF THE HOSPITAL.—The medical superintendent shall be the treasurer of the hospital, and before entering upon his duties, shall file with the State Comptroller his undertaking to the people with sureties, to be approved by the Superintendent of State Prisons, to the effect that he will faithfully perform his trust as such treasurer. He shall have the custody of the moneys, securities and obligations belonging to the hospital, and shall open with some bank, in the vicinity of the hospital, to be selected with the approval of the Comptroller, an account in his name as such medical superintendent, and immediately deposit in such bank all moneys received by him as such medical superintendent and treasurer, and shall draw therefrom only for the use of the hospital and in the manner provided by the by-laws and upon the order of the steward, specifying the object of each payment. He shall keep a full and accurate account of the receipts and payments, as directed by the by-laws, and of such other matters as the Superintendent of State Prisons may prescribe, and balance all his accounts, annually, on the thirtieth day of September, and within ten days thereafter deliver to the Superintendent of State Prisons, a statement thereof and an abstract of such receipts and payments for the past year. His books and vouchers shall at all times be open to the inspection of the Superintendent of State Prisons, who may at any time require of him a statement of his accounts and of the funds and property in his custody.

§ 4. SALARIES OF RESIDENT OFFICERS.—The Superintendent of State Prisons shall, from time to time, determine the annual salaries and allowances of the resident officers, provided they do not in the aggregate exceed twelve thousand dollars; and the same shall be paid quarterly, on the last days of March, June, September and December, by the Treasurer of the State, on the warrant of the Comptroller, out of any moneys in the treasury appropriated for that purpose, to the medical superintendent, on his presenting a bill of particulars thereof signed by the steward, and properly certified by such medical superintendent.

§ 5. POWERS AND DUTIES OF MEDICAL SUPERINTENDENT AND ASSISTANTS.—The medical superintendent shall be the chief executive officer of the hospital and shall:

1. Have the general superintendence of the building and grounds, together with their furniture, fixtures and stock, and the direction and control of all persons therein, subject to the rules and regulations adopted by the Superintendent of State Prisons, with power to assign their respective duties.

2. Appoint such number of assistant physicians, not to exceed one for each two hundred inmates or fraction thereof, as the necessities of the institution may require, and a steward, all of whom and the medical superintendent, shall reside in the hospital, and shall be known as the resident officers thereof.

3. Appoint such and so many attendants and other subordinate employees as he may think proper and necessary for the economical and efficient administration of the affairs of the hospital, and prescribe their several duties and places, and fix, with the approval of the Superintendent of State Prisons, their compensation, and discharge any of them at his sole discretion; but in every case of discharge, so occurring, he shall, forthwith, enter the same with the reasons therefor, under an appropriate heading, in one of the record books of the hospital.

4. Give, from time to time, such orders and instructions as he may deem best calculated to insure good conduct, fidelity and economy in every department of labor and expense.

5. Maintain salutary discipline among all who are employed by the institution, and enforce strict compliance with all instructions and orders given by him, and uniform obedience to all the rules and regulations of the hospital.

6. Cause full and fair accounts and records of all his doings, and of the entire business and operations of the institution to be kept regularly, from day to day, in books provided for that purpose, in the manner and extent prescribed in the by-laws.

7. See that all accounts and records are fully made up to the last day of September in each year, and present the principal facts and results, with his report thereon, to the Superintendent of State Prisons, within forty days thereafter. The resident officers, before entering upon their duties as such, shall severally take and file in the office of the Secretary of State, the constitutional oath of office. The first assistant physician shall perform the duties and be subject to the responsibilities of the superintendent in his sickness or absence. The steward may personally purchase any supplies for the use of such hospital, but only in the name of the medical superintendent, and in each instance by his direction and not otherwise.

§ 6. MONTHLY ESTIMATES.— The medical superintendent shall cause an estimate to be made monthly, in accordance with forms to be approved by the State Comptroller, of all moneys necessary for the support and maintenance of the hospital, which may be required to supplement the deficiencies in the earnings thereof. Such estimate shall be submitted to and examined by the Superintendent of State Prisons, who, if he is satisfied that it is correct, and that the articles named therein are actually needed for the support and maintenance of the hospital, shall certify to the same, and on production of such esti-

mate so certified, to the Comptroller, he shall draw his warrant on the State Treasurer for the amount thereof, and the State Treasurer shall pay such amount to the medical superintendent of the hospital, out of any money in the treasury appropriated for the support of such hospital.

§ 7. POWER OF REMOVAL.— The Superintendent of State Prisons may remove the medical superintendent, for cause shown, after an opportunity to such superintendent to be heard thereon, and such officer shall not be reappointed to the office of medical superintendent, or to any other position in said hospital.

§ 8. TRANSFER OF INSANE CONVICTS FROM MATTEAWAN STATE HOSPITAL TO THE DANNEMORA HOSPITAL.—When the Dannemora Hospital for Insane Convicts is ready for occupancy, the superintendent of the Matteawan State Hospital for Insane Criminals shall cause to be transported to the Dannemora Hospital and delivered to the medical superintendent thereof, all male prisoners, convicted of felony, who are confined in such hospital upon a commitment thereto from a State prison, reformatory or penitentiary and who have not less than six months to serve of the term for which they were sentenced.

The original certificates of conviction, and copies of the medical certificates of insanity of the prisoners transferred shall be forwarded to the medical superintendent of Dannemora Hospital, when such transfer is made. The names of the prisoners so transferred, with such information as the Superintendent of State Prisons may require, shall be forwarded to the office of such superintendent.

§ 9. TRANSFER OF PRISONERS IN STATE PRISONS, REFORMATORIES AND PENITENTIARIES TO DANNEMORA HOSPITAL.—Whenever the physician of either of the State prisons, reformatories or penitentiaries shall certify to the warden or superintendent thereof, that a male prisoner confined therein and sentenced thereto for a felony, is, in his opinion, insane, such warden or superintendent shall cause such prisoner to be transferred to the Dannemora Hospital for Insane Convicts and delivered to the medical superintendent thereof. Such superintendent shall receive the prisoner into such hospital, and retain him there until legally discharged. The warden or superintendent, before transferring such insane prisoner, shall see that he is in a state of bodily cleanliness, and is provided with a new suit of clothing similar to that furnished to convicts on their discharge from prison. At the time of such transfer, there shall be transmitted to the medical superintendent of such hospital the original certificate of conviction and the certificate of insanity executed by the physician, which shall be filed in the office of such medical superintendent who shall file a notice of such transfer in the office of the Superintendent of State Prisons.

§ 10. RETENTION OF INSANE CONVICTS AFTER THE EXPIRATION OF THEIR TERMS.—When the term of a convict confined in Dannemora Hospital for Insane Convicts has expired, and, in the opinion of the medical superintendent, such convict continues insane, the medical superintendent shall apply to a judge of a court of record to cause an examination to be made of such person, by two legally qualified examiners in lunacy, other than a physician connected with such hospital, qualified to act as medical examiners in lunacy. Such examiners shall be designated by the judge to whom the application is made. Such examiners, if satisfied, after a personal examination, that such convict is insane, shall make a certificate to such effect in the form and manner prescribed by the insanity law for the commitment of insane persons to State hospitals. Such superintendent shall apply to a judge of a court of record for an order authorizing him to retain such convict at the Dannemora Hospital, accompanying such application with such certificate in lunacy. Such judge, if satisfied that such convict continues insane, shall issue such order of retention, and such superintendent shall thereupon retain the convict at Dannemora Hospital until discharged as provided by law. The certificate in lunacy and order of retention shall be kept by the medical superintendent in his office, and a copy thereof shall be filed in the office of the State Commission in Lunacy. The costs necessarily incurred in determining the question of insanity, including the fees of the medical examiner, shall be a charge upon the amount appropriated for the support and maintenance of the Dannemora Hospital, and be paid in the same manner as are other expenses of such hospital.

§ 11. DISCHARGE OF INSANE CONVICTS AFTER EXPIRATION OF TERMS.—The medical superintendent of the Dannemora Hospital may discharge and deliver any patient whose sentence has expired, and who is still insane, but who, in the opinion of the superintendent, is reasonably safe to be at large, to his relatives or friends who are able and willing to comfortably maintain him, without further public charge; and such patient may, in the discretion of the medical superintendent, be provided with the whole or a portion of such allowances as are hereinafter granted to recovered convicts. Whenever any convict, who, by reason of his insanity, shall have been retained beyond the date of the expiration of his sentence, shall recover, he may be discharged by the medical superintendent, and such convict shall be entitled to ten dollars in money, suitable clothing, and a railroad ticket to the county of his conviction or to such other place as he may designate at no greater distance. Any convict in the Dannemora Hospital, whose term of imprisonment has expired by commutation or otherwise, and who is not recovered may, upon an order of the Commission in Lunacy, be transferred to any institution for the insane.

§ 12. CONVICTS ON RECOVERY TO BE TRANSFERRED TO PRISON.—Whenever any convict, who shall have been confined in such hospital as an insane person, shall have recovered before the expiration of his sentence, and the medical superintendent thereof shall so certify in writing to the warden or superintendent of the institution, from which such convict was received, or to which the Superintendent of State Prisons may direct that he be transferred, such convict shall forthwith be transferred to the institution from which he came, by the medical superintendent of the hospital, or, if received from one of the State prisons, to such State prison as the Superintendent of State Prisons may direct; and the warden or superintendent of such institution shall receive such convict into such institution, and shall, in all respects, treat him as when originally sentenced to imprisonment.

§ 13. CERTIFICATE OF CONVICTION TO BE DELIVERED TO MEDICAL SUPERINTENDENT AND COPY FILED.—Whenever a convict is transferred to the Dannemora Hospital, the warden or superintendent in charge of the prison, penitentiary, or reformatory from which such convict is transferred, shall cause a copy of the original certificate of conviction of such convict to be filed in the office of such warden or superintendent, and shall deliver the original certificate to the medical superintendent of such hospital; and whenever any such convict shall be transferred to any penal institution from such hospital, as hereinbefore provided, the medical superintendent shall deliver to the warden, or superintendent in charge of such institution, such original certificate, which shall be filed in the clerk's office of the same.

§ 14. COMMUNICATIONS WITH PATIENTS.—No person not authorized by law or by written permission from the Superintendent of State Prisons shall visit the Dannemora Hospital, or communicate with any patient therein, without the consent of the medical superintendent; nor without such consent shall any person bring into or convey out of the Dannemora Hospital any letter or writing to or from any patient; nor shall any letter or writing be delivered to a patient, or if written by a patient, be sent from the Dannemora Hospital until the same shall have been examined and read by the medical superintendent or some other officer of the hospital duly authorized by the medical superintendent. But communications addressed by such patient to the county judge or district attorney of the county from which he was sentenced, shall be forwarded, after examination by such medical superintendent, to their destination.

§ 15. This act shall take effect immediately.

Miscellaneous Laws

Relating to

State Prisons.

Property Found on Prisoner.

R. S. Pt. 4, Ch. 2, Title 7.

SEARCHING PRISONER FOR PROPERTY.— § 29. Any magistrate who shall commit any person, charged with any offense, to prison, or by whom any vagrant or disorderly person shall be committed, may cause such person to be searched for the purpose of discovering any property he may have; and if any property be found, the same may be taken and applied to the support of such person while in confinement.

Electrical Apparatus for the Execution of Convicts.

Chapter 36, Laws of 1899.

AN ACT TO PROVIDE FOR THE PROCUREMENT OF PROPER ELECTRICAL APPARATUS, MACHINERY AND APPLIANCES BY THE SUPERINTENDENT OF STATE PRISONS FOR THE EXECUTION OF CONVICTED CRIMINALS.

§ 1. The Superintendent of State Prisons shall, immediately on the passage of this act, cause an electrical apparatus suitable and sufficient for the infliction of the punishment of death as provided by section five hundred and five of the Code of Criminal Procedure to be constructed and placed in each of the State prisons of this State; together with the necessary machinery and appliances for the execution of convicted criminals as provided by said Code. (§ 2 omitted as temporary.)

Sale of Damaged Goods at Any of the State Prisons.

Chapter 386, Laws of 1893.

AN ACT IN RELATION TO THE REBUILDING AND REPAIR OF BUILDINGS AT THE AUBURN STATE PRISON AND THE SALE OF DAMAGED AND UNMARKETABLE GOODS AT ANY OF THE STATE PRISONS.

(§ § 1—2 omitted as temporary.)

§ 3. When any goods manufactured in the State prisons shall be damaged by fire or water, or become deteriorated or unmarketable from any cause, the Superintendent of State Prisons may direct them to be sold at the best price obtainable.

Southerly Bounds of State Lands at Clinton Prison.

Chapter 457, Laws of 1871.

AN ACT TO ESTABLISH THE SOUTHERLY BOUNDS OF THE STATE LANDS AT CLINTON PRISON.

§ 1. The southerly bounds of the two hundred acres of land conveyed to the State of New York by St. John B. L. Skinner and others, in eighteen hundred and forty-four, for a prison site at Dannemora, is hereby fixed and determined as and at the center of Cook Street in the said village of Dannemora, and it is hereby declared that the said two hundred acres do not extend, and the State has no right or title, south of said center of Cook Street aforesaid.

Fees of Sheriffs for Transporting Convicts to State Prison.

Extract from Chapter 128, Laws of 1877.

Hereafter, the compensation to sheriffs for conveying one convict to a State prison or penitentiary from the county prison, for each mile actually traveled, twenty cents; for conveying two convicts, for each mile so traveled, thirty-five cents; for conveying three convicts, for each mile so traveled, forty cents; and for conveying four or more convicts, for each mile so traveled, twelve cents each; with one dollar per day for the maintenance of each convict while on the way to a State prison or peniten-

tiary, but not exceeding one dollar for every thirty miles of travel, in full of all charges and expenses in the premises.

NOTE.—This act supersedes Ch. 123, L. 1849, as to the fees of sheriffs for transporting convicts to State prisons and penitentiaries.

Payment of Fees.

Chapter 25, Laws of 1840.

- Section 1. Payment of fees to sheriffs.
2. Accounts of sheriffs to be certified.

PAYMENT OF FEES TO SHERIFFS.— § 1. The Treasurer of this State shall pay, on the warrant of the Comptroller, to the sheriffs of the several counties in this State, such sum or sums of money as now are, or hereafter may be due to them respectively for their services and expenses in transporting convicts to either of the state prisons.

ACCOUNTS OF SHERIFFS TO BE CERTIFIED.— § 2. Whenever any such sheriff shall produce to the Comptroller a statement of his account for such services and expenses, certified by the clerk or agent of such prison to be correct, and that there are no funds at said prisons applicable to the payment thereof, it shall be the duty of the Comptroller to draw his warrant on the Treasurer in favor of such sheriff for the amount of his account.

Chapter 497, Laws of 1847.

- Section 3. Rendering accounts on delivering convicts.
4. Payment of account.
5. Convicts sentenced at one court to be taken.
6. Saving clause.

RENDERING ACCOUNTS ON DELIVERING CONVICTS.— § 3. On the delivery of such convict or convicts to the keeper of such prison, or superintendent of such house of refuge, the sheriff or other person having charge of the same, shall make and render to the agent, keeper or clerk of the prison, or superintendent of such house of refuge, an account of the number of days spent in coming, and the estimated time necessary in returning home, and the amount actually by him expended for the traveling expenses and sustenance of himself, his assistants, and the convicts in charge in coming to said prison or house of refuge, and the estimated like expenses in returning; which account shall then by him be certified under oath to be correct, and that the number of persons employed as assistants, were in his opinion necessary for the safe keeping and delivery of such convicts, to which shall be added the certificate of either the agent, keeper or clerk of such prison, or superintendent of such house of refuge, setting forth the number of convicts so delivered, and the distance from such prison to the place of their

conviction. The keeper of the respective prisons, and superintendent of the respective houses of refuge, are hereby authorized to administer the oath above required.

PAYMENT OF ACCOUNT.— § 4. The account, certified and attested as provided in the preceding section, shall be audited by the Comptroller, and paid out of the treasury, unless otherwise provided.

CONVICTS SENTENCED AT ONE COURT TO BE TAKEN.— § 5. All the convicts who shall be sentenced to imprisonment in the same State prison, or to the same house of refuge, at one session of a criminal court, shall be transported at the same time, unless said court shall expressly direct otherwise.

SAVING CLAUSE.— § 6. Nothing in this act contained shall be held to apply to the transportation of any convict or convicts from the City of New York to the House of Refuge for Juvenile Delinquents.

Products Raised in this State to be Purchased as Supplies for Prisons.

Chapter 32, Laws of 1899.

§ 1. The officers, boards, commissions and departments whose duty it is to purchase supplies for the maintenance of inmates in State institutions, shall, in purchasing such supplies, give preference to products raised within the State, price and quality being equal.

Printing in State Prisons.

Chapter 645, Laws of 1898.

AN ACT IN RELATION TO PRINTING IN PENAL INSTITUTIONS IN THE STATE.

§ 1. No printing or photo-engraving shall be done in any State prison, penitentiary or reformatory for the State or any political division thereof, or for any public institution owned or managed and controlled by the State or any such political division, except such printing as may be required for or used in the penal and State charitable institutions, and the reports of the State Commission of Prisons and the Superintendent of Prisons, and all printing required in their offices.

Imitation Butter and Cheese Not to be Purchased for Prisons.

Chapter 364, Laws of 1893.

§ 1. No money appropriated by law for maintenance and support in whole or in part of a State institution; nor money received by a charitable, benevolent, penal or reformatory institution from the State, or from a county, city or town thereof, or appropriated by such county, city or town for the maintenance or support in whole or in part of such institution nor money belonging to or used for maintenance or support of such institution, shall be expended for the purpose of, or in payment for, butterine, oleomargarine, lard cheese, or articles or product in imitation or semblance of natural butter or cheese produced from pure, unadulterated milk or cream from the same, which articles or products have been rendered or manufactured in whole or in part from animal fat, or animal or vegetable oils not produced from unadulterated milk or cream from the same.

§ 2. No officer, manager, superintendent or agent of an institution mentioned in the first section of this act, shall purchase for the use of such institution articles or products for the purchase of which the money appropriated by law, or by a county, city or town, is forbidden to be used by this act, and no person shall sell to, or for the use of such institution, such articles or products. Nor shall such articles or products be used as articles of food or for cooking purposes in such institutions within this State.

To Prevent the Detention of Children Over Two Years of Age in Any State Prison.

Chapter 547, Laws of 1904.

§ 1. If any woman committed to any State's prison, at the time of such commitment is a mother of a nursing child in her care under one year of age, or if a child shall be borne to any woman after such commitment to a State's prison such child may accompany its mother to and remain in such institution until it is two years of age, and must then be removed therefrom, unless the term of imprisonment of such will expire within two years from the time said child thus reaches two years of age. The warden, superintendent or officer in charge of any State's prison, shall cause such child when he or she attains the age of two years to be placed in an asylum for children in this State or

may commit such child to the care and custody of some relative or proper person willing to assume such care. If such woman, at the time of such commitment, shall be the mother of and have under her exclusive care a child more than one year of age, which might otherwise be left without proper care or guardianship, the justice or magistrate committing such woman shall cause such child to be committed to such asylum as may be provided by law for such purposes, or to the care and custody of some relative or proper person willing to assume such care.

Certificate of Former Conviction Evidence Upon Trial for Second or Subsequent Offense.

Chapter 290, Laws of 1878.

CERTIFICATE.— § 1. The certificate of the warden or other chief officer of any State prison, or of the superintendent or other officer of any penitentiary under the seal of his office containing name of person, a statement of the court in which conviction was had, the date and term of sentence, length of time imprisoned, and date of discharge from prison or penitentiary, shall be *prima facie* evidence on the trial of any person for a second or subsequent offense, of the imprisonment and discharge of such person, either by pardon or expiration of his sentence (as the case may be), under the conviction stated and set forth in such certificate. But such certificate shall not in any other case be evidence of such imprisonment and discharge. (*As amended by Ch. 614, L. 1881.*)

Expense of Convicts' Trials.

Chapter 389, Laws of 1882.

AN ACT TO PROVIDE FOR THE PAYMENT BY THE STATE OF THE EXPENSES OF THE TRIALS OF CONVICTS FOR CRIMES COM- MITTED DURING THE TIME OF THEIR IMPRISONMENT IN EITHER OF THE STATE PRISONS OF THE STATE.

- Section 1. State to pay expenses of trial.
2. Detailed statement made by district attorney and forwarded to Comptroller.
3. Audit of statement by Comptroller and Attorney-General.

STATE TO PAY EXPENSES OF TRIAL.— § 1. Whenever any convict or convicts in either of the State prisons of this State or in the New York State Reformatory at Elmira, shall be indicted and tried for any offense committed by such convict or convicts during the time of their imprisonment in any State prison in

this State or reformatory, the expenses of such trial, and in case of conviction of murder in the first degree, the expenses of executing the judgment or sentence of the court shall be paid by the State.

DETAILED STATEMENT MADE BY DISTRICT ATTORNEY AND FORWARDED TO COMPTROLLER.— § 2. It shall be the duty of the district attorney of any county in which such convict or convicts shall be indicted and tried to make out a detailed statement under oath of all the necessary expenses incurred by any such trial, including the expenses of procuring witnesses to attend before the grand jury and at the trial of the indictment, and also the amount which shall or may be paid for petit jurors for and during the time occupied by such trial, and forward the same to the Comptroller of the State of New York.

AUDIT OF STATEMENT BY COMPTROLLER AND ATTORNEY-GENERAL.— § 3. It shall be the duty of the Comptroller and Attorney-General to examine such statement and to correct the same by striking therefrom any and all items which are not intended to be paid by the provisions of this act, and after correcting such statement as aforesaid, to draw his draft upon the Treasurer for the amount of such expenses in favor of the county treasurer of the county in which such trial and indictment shall be had, which sum shall be paid to said county treasurer out of any moneys in the treasury not otherwise appropriated.

Employment of Convicts upon the Highway.

Chapter 266. Laws of 1894.

AN ACT TO PROVIDE FOR THE EMPLOYMENT OF STATE PRISON CONVICTS UPON THE PUBLIC HIGHWAY.

§ 1. The Superintendent of State Prisons may employ or cause to be employed, not to exceed three hundred of the convicts confined in each State prison in the improvement of the public highways, within a radius of thirty miles from such and outside of an incorporated city or village.

§ 2. The agent and warden of each prison may make such rules as he may deem necessary for the proper care of such prisoners while so employed, subject to the approval of the Superintendent of State Prisons.

§ 3. The agent and warden of each prison may designate, subject to the approval of the Superintendent of State Prisons, the highways and portions thereof upon which such labor shall be employed; and such portions so designated and approved shall be

under his control during the time such improvements are in progress, and the State Engineer and Surveyor shall fix the grade and width of the roadway of such highways and direct the manner in which the work shall be done.

§ 4. The Superintendent of State Prisons is hereby authorized to purchase any machinery, tools and materials necessary in such employment.

§ 5. Any person interfering with or in any way interrupting the work of any convict employed pursuant to this act, upon the public highways, or any persons giving or attempting to give any intoxicating liquors, beer, ale or other spirituous beverage to any State prison convict so employed, shall be guilty of a misdemeanor. Any officer or keeper of any State prison having in charge the convicts employed upon such highways, may arrest without a warrant any person violating any provision of this section. (*§ 5 added by Ch. 664, L. 1894. § 6 repeals Ch. 312, L. 1893.*)

Prison Fund.

Chapter 637, Laws of 1887.

AN ACT TO ESTABLISH A PRISON FUND AND TO DESIGNATE THE SOURCES AND PURPOSES THEREOF.

§ 1. There shall be established in the treasury of this State a fund which shall be known and designated as the prison fund; it shall consist of all moneys raised by taxation for prison purposes or heretofore appropriated and unexpended therefor, and all moneys arising from the sale of the products or property of the prisons, and all such moneys, whenever received in the treasury, shall be placed to the credit of such fund; and all appropriations made for any of the prisons of this State (except for repairs other than the ordinary repairs thereof), for the maintenance thereof, for the purchase of materials therefor, and for manufacturing therein, shall be paid by the Treasurer from such fund, upon the warrant of the Comptroller.

Fees from Visitors.

Chapter 417, Laws of 1862.

FEES FROM VISITORS TO GO TO DISCHARGED CONVICTS.—

§ 5. The funds arising from the fees charged to visitors at the

State prisons may be applied, under the direction of the inspectors of State prisons, and the fees charged to visitors at the penitentiaries may, in like manner, be applied, under the direction of the board or committee charged with the general management thereof, by the warden, superintendent or other officer having charge of any State prison or penitentiary, for the use and benefit of convicts upon their discharge, in addition to the amount now allowed by law ; and also on the condition that the allowance of such additional sum shall be the good behavior of the convict, from and after the passage of this act. (*Id. as amended by Ch. 415, L. 1863.*)

NOTE.—This section is inoperative for the reason that fees are not charged to visitors.

Commutation of Sentences.

Chapter 21, Laws of 1886.

AN ACT PROVIDING FOR COMMUTATION OF SENTENCES FOR GOOD BEHAVIOR OF CONVICTS IN THE PRISONS AND PENITENTIARIES IN THIS STATE.

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| Section | 1. Commutation of sentence convict may earn. |
| | 2. Commutation, how computed. |
| | 3. Term of imprisonment, when to begin. |
| | 4. Warden to report monthly to Governor; contents. |
| | 5. Terms expiring on holidays and Sundays. |
| | 6. Rules for allowance of commutation; change thereof. |
| | 7. Allowance of commutation to be determined by prison board; regulations respecting the same; part of commutation may be withheld. |
| | 8. Reasons for withholding to be sent to Governor; his power. |
| | 9. Forfeiture of commutation for escapes. |
| | 10. Proceedings for determining as to escapes. |
| | 11. To whom provisions as to escapes are applicable. |
| | 12. Reports to Governor, how signed. |
| | 13. Power of Governor to grant commutation for good conduct. |
| | 14. Governor to annex condition to commutation; return of convict to prison for violation. |
| | 15. Certificate of wardens as to commutation may be received in evidence. |
| | 16. Convicts to be informed of this act. |
| | 17. Proceedings upon discharge. |
| | 18. Application of act to asylum for insane criminals; powers of medical superintendent. |
| | 19. Application of act to convicts in reformatory; powers of superintendent. |
| | 20. Quorum, powers of majority. |
| | 21. Repealing inconsistent acts. |

COMMUTATION OF SENTENCE CONVICT MAY EARN; AMOUNT THEREOF.— § 1. A sentence to imprisonment in a State prison for a definite fixed period of time is a definite sentence. A sentence to imprisonment in a State prison having minimum and maximum limits fixed by the court is an indeterminate sentence. Every convict confined under a definite sentence in any State prison or penitentiary in this State, on a conviction of a felony or misdemeanor, whether male or female, where the terms or term equal or equals one year, exclusive of any term which may be imposed by the court or by statute as an alternative to the payment of a fine, or a term of life imprisonment, may earn for himself or herself a commutation or diminution of his or

her sentence or sentences as follows, namely, two months for the first year, two months for the second year, four months each for the third and fourth years, and five months for each subsequent year. (*As amended by Ch. 137, L. 1903.*)

COMMUTATION, HOW COMPUTED.— § 2. Where any convict in any State prison or penitentiary in this State is held under more than one conviction, the several terms of imprisonment imposed thereunder shall be construed as one continuing term for the purpose of estimating the amount of commutation which he or she may be entitled to under the provisions of this act.

TERM OF IMPRISONMENT, WHEN TO BEGIN.— § 3. For the purpose of this act the term of imprisonment of each convict shall begin on the date of his or her actual incarceration in a State prison or penitentiary.

WARDEN TO REPORT MONTHLY TO GOVERNOR; CONTENTS.— § 4. On any day not later than the twentieth day of each month, the agent and warden of each of the State prisons in this State, and the warden or superintendent of each of the penitentiaries in this State, shall forward to the Governor a report, directed to him, of any convict or convicts who may be discharged the following month by reason of the commutation of his or her sentence or their sentences in the manner hereinafter provided, which may be written or printed, or partly written and partly printed, which shall be uniform as to size and arrangement, which size and arrangement shall be fixed by the Governor, and shall contain the following information, distinctly written, namely: The full name of the convict, together with any alias which he or she may be known to have, the name of the county where the conviction was had, a brief description of the crime of which the convict was convicted, the name of the court in which the conviction was had, the name of the presiding judge, the date of sentence, the date of reception in the prison or penitentiary, the term and fine, the amount of commutation recommended, and the date for discharge from prison or penitentiary, if allowed.

TERMS EXPIRING ON HOLIDAYS AND SUNDAYS.— § 5. In the cases of all convicts where the date of discharge from a State prison or penitentiary, as determined after the allowance of commutation for good conduct, falls on Sunday, or any legal holiday, it shall fall on the day following.

RULES FOR ALLOWANCE OF COMMUTATION; CHANGE THEREOF.— § 6. As soon as practicable after the passage of this act, the Superintendent of State Prisons shall formulate rules governing the allowance or disallowance of commutation to convicts for good conduct in prison or penitentiary which shall in all cases be strictly adhered to in all the prisons and penitentiaries in this State. These rules may be changed from time to time, if necessary, in the discretion of the Superintendent of State Pris-

ons, and he shall immediately on their adoption, or of any changes in the same thereafter, cause copies of the same to be forwarded to the agents and wardens of all the prisons, and the wardens or superintendents of all the penitentiaries in this State. A copy of these rules shall be furnished to every convict entitled to the benefits of this act.

ALLOWANCE OF COMMUTATION TO BE DETERMINED BY PRISON BOARD; REGULATIONS RESPECTING THE SAME; PART OF COMMUTATION MAY BE WITHHELD.— § 7. For the purpose of applying the rules mentioned in the last section for the allowance or disallowance of commutation for the good conduct of any convict, a board shall be constituted in each of the prisons and penitentiaries of this State, to consist of the agent and warden in each of the State prisons and the principal keeper and the physician therein, and the warden or superintendent in each of the penitentiaries of this State, the deputy or principal keeper and the physician therein, or of the persons acting in their place and stead. This board shall meet once in each month before the date fixed for the transmission of their report to the Governor, as hereinbefore provided, and proceed to determine the amount of commutation which they shall recommend to be allowed to any convict, which shall not in any case exceed the amount fixed by this act. They shall have full discretion to recommend the withholding the allowance of commutation for good conduct, or of a part thereof as a punishment for offenses against the discipline of the prison or penitentiary, in accordance with the rules hereinbefore mentioned.

REASONS FOR WITHHOLDING TO BE SENT TO GOVERNOR; HIS POWER.— § 8. In all cases, however, where the board shall recommend the withholding of the allowance of the whole or any part of commutation for good conduct, they shall forward with their report to the Governor their reasons, in writing, for such disallowance, and the Governor may, in his discretion, decrease or increase the amount of commutation as recommended by the said board, but he shall not increase the same beyond the amount fixed by this act.

FORFEITURE OF COMMUTATION FOR ESCAPES.— § 9. In case any convict in any of the State prisons or penitentiaries in this State having a sentence or sentences which equals or equal four years, escapes or attempts to escape, he or she shall, for the first escape or attempt to escape, forfeit one-half the amount of commutation fixed by this act. For the second escape or attempt to escape, he or she shall forfeit all commutation for good conduct as provided for in this act. Any convict, however, having a sentence or sentences which equals or equal less than four years, who escapes or attempts to escape, shall forfeit all commutation for good conduct as provided for in this act. But where a convict has more than one term, the provis-

ions of this section shall only apply to the term during which the escape or attempt to escape was made.

PROCEEDINGS FOR DETERMINING AS TO ESCAPES. — § 10. The board hereinbefore provided for to fix the amount of commutation for good conduct shall, immediately on the escape or attempt to escape of any convict, meet and proceed to investigate the said escape or attempt to escape, reduce the testimony of all persons having knowledge on the subject to writing, cause the said persons to affix their signatures thereto and make oath to the same before any one of the members of said board, who is hereby authorized and empowered to administer such oath, and false swearing on such examination or in such statement shall be perjury. The said board shall thereupon make a full report in writing, and immediately forward the same to the Superintendent of State Prisons, who shall thereupon determine whether an escape or attempt to escape was committed, make an indorsement, in writing, of his decision, and return the same to the agent and warden of the State prison, or the warden or superintendent of the penitentiary where the escape or attempt to escape shall have occurred, where the same shall be recorded in a book to be kept for that purpose. But, if from newly-discovered evidence, or other just cause, there is reasonable ground to believe that an injustice has been done to any convict in his or her having been adjudged to have escaped or attempted to have escaped, the Superintendent of State Prisons may, in his discretion, make an order in writing directed to the agent and warden of the State prison or the warden or superintendent of the penitentiary from which such convict was adjudged to have escaped or attempted to have escaped, requiring that a re-examination of the former adjudication be had, and upon a report to him of such re-examination, he shall proceed to render a decision upon the same. And the proceedings on such re-examination, the decision and the proceedings had thereunder, shall in all respects be conducted in the manner above set forth in this section as upon a first hearing in the matter of an escape or attempt to escape. But the provisions of this section shall not apply to the case of any convict, the length of whose term or terms is less than one year.

TO WHOM PROVISIONS AS TO ESCAPES ARE APPLICABLE. — § 11. The provisions of section nine shall apply to all convicts who are now, or may hereafter be confined in any prison or penitentiary of this State.

REPORTS TO GOVERNOR, HOW SIGNED. — § 12. The reports of the various boards for the determination of the amount of commutation for good conduct of convicts in the prisons and penitentiaries of this State to the Governor, shall be personally signed by the members thereof.

POWER OF GOVERNOR TO GRANT COMMUTATION FOR GOOD

CONDUCT.— § 13. The Governor, upon the receipt of the report recommending the allowance of commutation of sentences of convicts for good conduct as provided for in this act, may, in his discretion, allow the same, and place the names of all those convicts whom he may determine to commute upon one warrant, and direct the same to the agent and warden of the State prison, or the warden or superintendent of the penitentiary, wherein such convicts may be confined, who shall thereupon proceed to execute such warrant by discharging the convicts mentioned therein on the date fixed for their discharge.

NOTE.—See § 83, Ch. 382, L. 1889 ante p. 30.

GOVERNOR TO ANNEX CONDITION TO COMMUTATION; RETURN OF CONVICT TO PRISON FOR VIOLATION.— § 14. The Governor shall, in commuting the sentences of convicts as provided for in this act, annex a condition to the effect that if any convict so commuted shall, during the period between the date of his or her discharge, by reason of such commutation and the date of the expiration of the full term for which he or she was sentenced, be convicted of any felony, he or she shall, in addition to the penalty which may be imposed for such felony committed in the interval as aforesaid, be compelled to serve in the prison or penitentiary in which he or she may be confined for the felony for which he or she is so convicted, the remainder of the term without commutation which he or she would have been compelled to serve but for the commutation of his or her sentence as provided for in this act.

CERTIFICATE OF WARDENS AS TO COMMUTATION MAY BE RECEIVED IN EVIDENCE.— § 15. The certificate of the agent and warden of a State prison or the warden or superintendent of a penitentiary, that the period of imprisonment of a convict was commuted under the provisions of this act, and of the crime and the length of term for which such commutation was granted, shall be received in evidence as proof for the purposes mentioned and described in section fourteen.

CONVICTS TO BE INFORMED OF THIS ACT.— § 16. Upon the receipt of any convict in any prison or penitentiary in this State who shall be entitled to the benefits of this act, the provisions of the same shall be read to him or her, and the meaning of the same shall be fully explained to him or her by the clerk of the prison or penitentiary.

PROCEEDINGS UPON DISCHARGE.— § 17. Upon the discharge of any convict by reason of commutation of sentence for good conduct, the provisions of sections fourteen and fifteen of this act shall be read to, and their nature fully explained to him or her, by the clerk of the prison or penitentiary.

APPLICATION OF ACT TO ASYLUM FOR INSANE CRIMINALS; POWERS OF MEDICAL SUPERINTENDENT.— § 18. The provisions of this act shall apply to any convict who may have been

transferred to the State Asylum for Insane Criminals from either of the prisons or penitentiaries or from any reformatory of this State to which he or she may have been transferred from any of the prisons or penitentiaries of this State whose sentence or sentences aggregates or aggregate not less than one year. And the medical superintendent of the State Asylum for Insane Criminals may and shall perform any of the acts which may or shall be done by any board mentioned in this act.

NOTE.—The foregoing chapter and § 77, Ch. 382, L. 1889, supersedes § 3, Ch. 417, L. 1862 as amended by Ch. 415, L. 1863.

APPLICATION OF ACT TO CONVICTS IN REFORMATORY; POWERS OF SUPERINTENDENT. — § 19. The provisions of this act shall apply to any convict who may have been transferred from either of the prisons or penitentiaries to any reformatory of this State whose sentence or sentences equals or equal not less than one year. And the superintendent or chief officer of any reformatory in this State in which any convict may be transferred as aforesaid, may and shall perform any of the acts which may or shall be done by any board mentioned in this act.

NOTE.—§ 20 is repealed by the statutory construction law, Ch. 677, L. 1892, which reads as follows:

§ 19. MEETING; QUORUM; POWERS OF MAJORITY.—Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of all such persons or officers at a meeting duly held at a time fixed by law, or by any by-law adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, may perform and exercise such power, authority or duty, and if one or more of such persons or officers shall have died or have become mentally incapable of acting, or shall refuse or neglect to attend any such meeting, a majority or the whole number of such persons or officers shall be a quorum of such board or body, and a majority of a quorum, if not less than a majority of the whole number of such persons or officers, may perform and exercise any such power, authority or duty. Any such meeting may be adjourned by a less number than a quorum. A recital in any order, resolution or other record of any proceeding of such a meeting that such meeting had been so held or adjourned, or that it had been held upon such notice to the members, shall be presumptive evidence thereof.

§ 21. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 22. This act shall take effect immediately.

RULES

FORMULATED IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION SIX OF THE FOREGOING CHAPTER.

§ 9. RULE 1. In case any convict in any of the State prisons

or penitentiaries in this State having a sentence or sentences which equals or equal four years, escapes or attempts to escape, he or she shall, for the first escape or attempt to escape, forfeit one-half the amount of commutation fixed by the above act. For the second escape or attempt to escape, he or she shall forfeit all commutation for good conduct provided for in the above act. Any convict, however, having a sentence or sentences which equals or equal less than four years, who escapes or attempts to escape, shall forfeit all commutation for good conduct provided for in the above act.

RULE 2. Any convict who shall assault an officer with a dangerous weapon shall forfeit not less than one-half of the commutation fixed by the above act for good conduct.

RULE 3. Any convict who shall assault another convict with a dangerous weapon shall forfeit not less than one-quarter of the commutation fixed by the above act for good conduct.

RULE 4. For assaulting or attempting to assault an officer or another convict not with a dangerous weapon; for disobeying orders; for resisting an officer; for insubordination; for feigning insanity; for smuggling or attempting to smuggle letters or other articles in or out of prison or penitentiary, the convict offending shall forfeit not less than ten days of the allowance of commutation fixed by the above act for good conduct.

RULE 5. Any convict who shall destroy or secrete property shall forfeit not less than five days of the allowance of commutation fixed by the above act for good conduct.

RULE 6. For offenses not enumerated in the foregoing rules, but which in the judgment of the board constituted by section 7 of the above act require a penalty, the convict offending shall forfeit not less than three days of the allowance of commutation fixed by the above act for good conduct.

RULE 7. If while serving the remainder of a term as provided by section 14 of the above act, a convict shall commit any of the offenses enumerated in the foregoing rules, the forfeiture therefor shall apply on the term of the last sentence.

RULE 8. The board constituted by section 7 of the above act may take into consideration the general average conduct of a convict, and recommend the withholding of such part of the commutation for good conduct as in its judgment may be just in accordance with the foregoing rules.

CORNELIUS V. COLLINS,

Superintendent of State Prisons.

Albany, May 15, 1898.

State Commission of Prisons.

Chapter 1026, Laws of 1895.

AN ACT TO PROVIDE FOR THE APPOINTMENT OF A STATE COMMISSION OF PRISONS, AND DEFINING ITS DUTIES AND POWERS.

- Section
1. Appointment of commissioners, term of office.
 2. Powers and duties.
 4. Officers, duties and salaries of.
 5. Inspection and investigation of institutions.
 6. Penal institutions to report to commission.
 7. Refusal to admit commissioners; compulsory process.
 - 7a. Estimates to be furnished by certain officers.
 8. Compensation and expenses of commission.

APPOINTMENT OF COMMISSIONERS, TERM OF OFFICE.— § 1. The State Commission of Prisons shall consist of three members, to be appointed by the Governor, by and with the advice and consent of the Senate, and in making such appointments, the Governor shall designate one of such members as president of the commission. Except as provided in this section, a member of such commission first appointed shall hold office for a term to expire on the thirty-first day of December, nineteen hundred and four, and a successor to such member thereafter appointed shall hold office for a term of four years, beginning on the first day of January of the year in which he was appointed. If at the time of his appointment any member of such commission holds any other State office, his term as a member of such commission shall expire on the expiration of his term as such other State officer, and his successor shall hold office for the balance of the term during which such State officer would have held, except for the foregoing limitation. Said commission shall have power to make and use an official seal and alter the same at pleasure. Within twenty days after the amendment of this section takes effect, the Governor shall appoint a State Commission of Prisons as herein provided, and upon the appointment and qualification of the members of such commission, the terms of the members of the Commission of Prisons then in office shall expire. (*As amended by Ch. 12, L. 1901.*)

NOTE.—Legislature to provide for State Commission of Prisons. Const., Art. VIII, § 11, ante p. 6. Appointment of commission, Id. § 12.

POWERS AND DUTIES. — § 2. It shall be the duty of said commission to visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors; to aid in securing the just, humane and economic administration of all said institutions subject to its inspection; to aid in securing the erection of suitable buildings for the accomodation of the inmates of such institutions, and to approve or reject plans for their construction or improvement; to investigate the management of all institutions made subject to the visitation of said commission and the conduct and efficiency of the officers or persons charged with their management; to secure the best sanitary conditions of the buildings and grounds of all such institutions, and to protect and preserve the health of the inmates; to collect statistical information in respect to the property, receipts and expenditures of said institutions, the number and condition of the inmates thereof; and to ascertain and recommend such system of employing said inmates as may, in the opinion of said commission, be for the best interests of the public and not in conflict with the provisions of the Constitution relating to the employment of prisoners.

ROOMS AND STATIONERY. — § 3. The proper authorities shall provide for and assign to such commission suitably furnished rooms for its office and place of meeting in the State Hall or Capitol at Albany, where it shall hold its meetings as often as once in three months, and the Comptroller shall furnish said commission with all necessary journals; account books, blanks and stationery.

OFFICERS; DUTIES; SALARIES. — § 4. Such commission shall annually elect a secretary, who shall keep a record of all its proceedings, and perform such duties as may be required of him by the commission and by law, and he shall receive a salary of three thousand dollars per annum; and the said commission may also appoint as employees and assistants of said commission, and of the commissioners, in the performance of their official duties, a clerk, at an annual salary of one thousand five hundred dollars, a stenographer and a general office assistant, at an annual salary of one thousand dollars each, and remove each and appoint a successor at any time; and the said commission is authorized to make rules and regulations for its meetings and the transaction of its business and also as to the manner in which reports to it shall be made, and all matters shall be presented before it. (*As amended by Ch. 12, L. 1901.*)

INSPECTION AND INVESTIGATIONS OF INSTITUTIONS. — § 5. Said commission or any of said commissioners, or its secretary, if authorized by it, is authorized to visit and inspect any of said institutions, subject to its visitations, and may take and hear testimony or proofs in relation to any matter before it or him upon any visit, inspection or examination made by such commission or member thereof, and the said commission or any

members thereof, shall have full access to persons, grounds, buildings, books and papers relating thereto, and may require from the officers and persons in charge any information it or he may deem necessary in the discharge of its or his duties. Said commission may prepare regulations according to which and provide blanks and forms upon which, such information shall be furnished in a clear, uniform and prompt manner for the use of said commission. Said commission shall make an annual report to the Legislature, in January in each year, in which it shall give the results of its work and such information as it deems proper relating to said institutions, and its opinions and conclusions relating to the same.

PENAL INSTITUTIONS TO REPORT TO COMMISSION.— § 6. The warden of every prison, the superintendent or manager of every penitentiary, the keeper of every jail or other institution used for the detention of sane adults charged with or convicted of crime or detained as witnesses or debtors shall on or before the first day of November in each and every year report to the State Commission of Prisons the number of male and female persons charged with crime and awaiting trial, the number convicted of crime, the number detained as witnesses, and as debtors, in his custody on the first day of October last past, together with a statistical exhibit of the number of admissions, discharges and deaths which have occurred within the past year, the nature of the charge, the period of detention or sentence, and such other facts and information as the commission may require.

REFUSAL TO ADMIT COMMISSIONERS; COMPULSORY PROCESS.— § 7. Any officer, superintendent or employee of any of said penal institutions who shall refuse to admit said commission or any of said commissioners or its secretary or other authorized agent for the purpose of visitation or inspection, or shall refuse or neglect to furnish the information required by the said commission or any member thereof, or its secretary, shall be guilty of a misdemeanor, and subject to a fine of one hundred dollars for each such refusal or neglect. The rights and powers hereby conferred may be enforced by an order of the Supreme Court. In making investigations as herein empowered said commission or any member thereof is hereby empowered to issue compulsory process for the attendance of witnesses and the production of papers, to administer oaths, and to examine persons under oath and to exercise the same powers as belong to referees appointed by the court.

ESTIMATES TO BE FURNISHED BY CERTAIN OFFICERS.— § 7a. The said commission shall have the further duty and authority to require the proper officials of the State and the political divisions thereof, and of all public institutions of the State, and political divisions thereof, supported wholly or in part by the State, or any political division thereof, to furnish to said commission, annually, estimates for each ensuing year of the

amount of labor to be required by each, and of the articles which may be manufactured in penal institutions, required to be purchased for the use of the State or the political divisions, or said institutions in their charge or under their management.

COMPENSATION AND EXPENSES OF COMMISSION.— § 8. The president of such commission shall receive an annual salary of two thousand five hundred dollars. The other members of such commission shall serve without compensation. All such members shall receive their expenses, actually and necessarily incurred in the performance of their official duties as members of such commission, which shall be paid quarterly by the Treasurer on the warrant of the Comptroller. The salary and expenses of the secretary and the other stated employees of the commission shall be paid monthly in like manner. (*As amended by Ch. 430, L. 1896 and Ch. 12, L. 1901.*)

NOTE.—Ch. 12, L. 1901 amending the several sections of the foregoing chapter also provided in its § 3 as follows.

“This act shall not affect any action or proceeding civil or criminal, pending at the time of the taking effect thereof, but such action or proceeding may be prosecuted or defended in the same manner and with the same effect as if no change had been made in the organization or membership of the State Commission of Prisons; nor shall any provision of the act affect in any way the orders and recommendations made by, or other matters before, such commission when this act takes effect.”

Freedom of Worship.

Chapter 396, Laws of 1892.

AN ACT TO PROVIDE FOR THE BETTER SECURITY OF THE FREEDOM OF RELIGIOUS WORSHIP IN CERTAIN INSTITUTIONS.

- Section 1. Freedom of worship.
2. Application of act.
3. Rules and regulations to permit freedom of worship.

FREEDOM OF WORSHIP.— § 1. All persons who may have been or may hereafter be committed to or taken charge of by any of the institutions mentioned in this act, are hereby declared to be and entitled to the free exercise and enjoyment of religious profession and worship, without discrimination or preference.

APPLICATION OF ACT.— § 2. This act shall be deemed to apply to every incorporated or unincorporated society for the reformation of its inmates, as well as houses of refuge, penitentiaries, protectories, reformatories or other penal institutions, continuing to receive for its use, either public moneys, or a per capita sum from any municipality for the support of its inmates.

RULES AND REGULATIONS TO PERMIT FREEDOM OF WORSHIP.— § 3. The rules and regulations established for the government of the institutions mentioned in this act shall recognize the right of the inmates to the free exercise of their religious belief, and to worship God according to the dictates of their consciences, in accordance with the provisions of the Constitution; and shall allow religious services on Sunday and for private ministration to the inmates in such manner as may best carry into effect the spirit and intent of this act, and be consistent with the proper discipline and management of the institution; and the inmates of such institutions shall be allowed such religious services and spiritual advice and spiritual ministration from some recognized clergyman of the denomination or church which said inmates may respectively prefer or to which they may have belonged prior to their being confined in such institutions; but if any of such inmates shall be minors under the age of sixteen years, then such services, advice and spiritual ministration shall be allowed in accordance with the methods and rites of the particular denomination or church which the parents or guardians of such minors may select; such services to be had and such advice and

ministration to be given within the buildings or grounds where the inmates are required by law to be confined, in such manner and at such hours as will be in harmony, as aforesaid, with the discipline and the rules and regulations of the institution and secure to such inmates free exercise of their religious beliefs in accordance with the provisions of this act. In case of a violation of any of the provisions of this act, any person feeling himself aggrieved thereby may institute proceedings in the Supreme Court of the district where such institution is situated, which is hereby authorized and empowered to enforce the provisions of this act.

Bertillon System of Measurement

for the

Identification of Criminals.

Chapter 440, Laws of 1896.

AN ACT TO FACILITATE THE IDENTIFICATION OF CRIMINALS.

- Section 1. Measurement of prisoners.
2. Indexing and classifying prisoners.

MEASUREMENT OF PRISONERS. — § 1. The Superintendent of State Prisons shall cause the prisoners in the State prisons therein confined at the time this act takes effect, and all prisoners thereafter received under sentence to be measured and described in accordance with the system commonly known as the Bertillon method for identification of criminals. The said Superintendent shall cause such measurements to be made by a person or persons in official service of the State, and shall prescribe rules and regulations for keeping accurate records of such measurements at such prisons and in duplicate at his office in Albany and for classifying and indexing the same. It shall also be the duty of the officials having charge of the New York State Reformatory at Elmira, and of the penitentiaries in which prisoners shall be confined, or shall be hereafter received under sentence of thirty days or more, to cause said prisoners to be measured and described in accordance with said Bertillon system by such person or persons in the official service of the State or of any such county or institution as may be designated by the Superintendent of State Prisons for the purpose, which measurements shall be made according to the rules and methods prescribed by the Superintendent of State Prisons. And it shall be the duty of the officials in charge of said New York State Reformatory at Elmira, and of such penitentiaries to cause duplicate records of such measurements to be transmitted to the Superintendent of State Prisons to be by him indexed and classified according to said Bertillon system. (*As amended by Ch. 498, L. 1900.*)

INDEXING AND CLASSIFYING PRISONERS. — § 2. The Superintendent of State Prisons is also authorized to file, index and

classify Bertillon descriptive cards received from other sources. The necessary expenses incurred by the Superintendent of State Prisons in indexing and classifying prisoners, as provided in this act, shall be payable by the Treasurer from the moneys appropriated for the maintenance and support of the several State prisons, on the warrant of the Comptroller, and on bills approved by the Superintendent of State Prisons, but such expenses shall not exceed three thousand dollars per year. (*As amended by Ch. 498, L. 1900, and Ch. 244, L. 1902.*)

Prison Association.

Extract from Chapter 163, Laws of 1846.

NOTE — § § 1-5 incorporate and regulate the association.

PRISON ASSOCIATION MAY VISIT.— § 6. The said executive committee, by such committees as they shall from time to time appoint, shall have power, and it shall be their duty to visit, inspect and examine all the prisons in the State, and annually report to the Legislature their state and condition, and all such other things in regard to them as may enable the Legislature to perfect their government and discipline. And to enable them to execute the powers and perform the duties hereby granted and imposed, they shall possess all the powers and authority that by the twenty-fourth section, of title first, chapter third, part fourth of the Revised Statutes are vested in the inspectors of county prisons, and the duties of the keepers of each prison that they may examine shall be the same in relation to them, as in the section aforesaid, are imposed on the keepers of such prisons in relation to the inspectors thereof; provided that no such examination or inspection of any prison shall be made until an order for that purpose to be granted by the Chancellor of this State, or one of the judges of the Supreme Court or by a vice chancellor or circuit judge, or by the first judge of the county in which the prison to be examined shall be situate shall first have been had and obtained, which order shall specify the name of the prison to be examined, the names of the persons members of the said association by whom the examination is to be made, and the time within which the same must be concluded.

APPROPRIATION.— § 2. For the Prison Association of the State of New York, four thousand dollars; and the said association, in addition to the powers heretofore conferred upon them, are hereby instructed and required to examine any person or persons with reference to the moral or financial administration of the prisons of the State, and the reformatory agencies employed in them, whenever they elect, provided that no expense shall be incurred to the State in such examination.

Transfer of Prisoners

FROM THE NEW YORK STATE REFORMATORY, AT ELMIRA, TO THE EASTERN NEW YORK REFORMATORY, AT NAPANOCH, AND THE STATE PRISONS, AND STATE PRISONS TO THE REFORMATORY.

FROM CHAPTER 378, LAWS OF 1900.

TRANSFER OF PRISONERS TO EASTERN NEW YORK REFORMATORY AT NAPANOCH AND TO STATE PRISONS. — § 16. If it shall appear to the board of managers of the reformatory that the reformatory is over-crowded or that any prisoner confined therein,

1. Was, at the time of his conviction, more than thirty years of age; or

2. Has been previously convicted of a felony; or

3. While in the reformatory, is incorrigible and that his presence therein is seriously detrimental to the welfare of the institution; an application may be made to a justice of the Supreme Court of the judicial district in which such reformatory is located, for an order transferring the prisoner named therein to the Eastern New York Reformatory, at Napanoch or to a State prison. Such application shall be by written petition signed by the president or secretary of the board and shall state the causes for seeking such transfer and due notice of such application with a copy of the petition shall be served personally or by mail at least eight days before the hearing on the Superintendent of State Prisons who shall specify the institution to which such prisoner shall be transferred; in case the order shall be made. Such justice shall grant such order of transfer, on such hearing as he may prescribe, if it appears to his satisfaction that the facts alleged are true and that such transfer should be made. A prisoner so transferred shall be confined in such institution as under an indeterminate sentence, commencing with his imprisonment in the reformatory with a minimum of one year and a maximum fixed by law for the crime of which the prisoner was convicted and sentenced; and may be released on parole or absolutely discharged as are other prisoners confined under an indeterminate sentence. Such prisoner may be returned at any time to the reformatory in the discretion of the

Superintendent of State Prisons, and with the consent of the board of managers of such reformatory. (*As amended by Ch. 138, L. 1903.*)

TRANSFER FROM STATE PRISONS TO THE REFORMATORY.—§ 17. Whenever there is unoccupied room in the reformatory, the board of managers thereof may make a requisition upon the Superintendent of State Prisons, for a sufficient number of well-behaved and most promising convicts under thirty years of age and who are confined in a State prison because of a first offense, and the Superintendent of State Prisons shall transfer such convicts to such reformatory for education and treatment under the rules thereof. The board of managers shall receive and detain the prisoners so transferred for the terms of their sentences, if such sentences are for fixed terms, less the commutation of imprisonment if earned, that would have been allowed to them for good conduct if they had completed their terms in the State prisons from which they were transferred. If such prisoners are confined under an indeterminate sentence, they may be paroled and discharged as are prisoners confined in a State prison, except that the board of managers shall constitute a board of parole for the purpose of paroling and discharging such prisoners, and such board shall make rules for such parole and discharge not inconsistent with law and in general conformity with the rules made by the parole boards of the State prisons.

Convict-Made Goods.

Chapter 415, Laws of 1897.

AN ACT IN RELATION TO LABOR, CONSTITUTING CHAPTER THIRTY-TWO OF THE GENERAL LAWS.

ARTICLE IV.

CONVICT-MADE GOODS AND DUTIES OF COMMISSIONERS OF LABOR STATISTICS RELATIVE THERETO, SECTIONS 50-55.

- Section 50. License for sale of convict-made goods.
51. Revocation of license.
52. Annual statement of licensee.
53. Labeling and marking convict-made goods.
54. Duties of Commissioner of Labor Statistics relative to violations; fines upon convictions.
55. Articles not to apply to goods manufactured for the use of the State or a municipal corporation.

§ 50. LICENSE FOR SALE OF CONVICT-MADE GOODS. — No person or corporation shall sell, or expose for sale, any convict-made goods, wares or merchandise, either by sample or otherwise, without a license therefor. Such license may be obtained upon application in writing to the Comptroller, setting forth the residence or post-office address of the applicant, the class of goods desired to be dealt in, the town, village or city, with the street number, if any, at which the business of such applicant is to be located. Such application shall be accompanied with a bond, executed by two or more responsible citizens, or some legally incorporated surety company authorized to do business in this State, to be approved by the Comptroller, in the sum of five thousand dollars, and conditioned that such applicant will comply with all the provisions of law, relative to the sale of convict-made goods, wares and merchandise. Such license shall be for a term of one year unless sooner revoked. Such person or corporation shall pay, annually, on or before the fifteenth day of January, the sum of five hundred dollars as a license fee, into the treasury of the State, which amount shall be credited to the maintenance account of the State prisons.

Such license shall be kept conspicuously posted in the place of business of such licensee.

§ 51. REVOCATION OF LICENSE.—The Comptroller may revoke the license of any such person or corporation, upon satisfactory evidence of, or upon conviction for the violation of any statute regulating the sale of convict-made goods, wares or merchandise; such revocation shall not be made until after due notice to the licensee so complained of. For the purpose of this section, the Comptroller or any person duly appointed by him, may administer oaths and subpoena witnesses and take and hear testimony.

§ 52. ANNUAL STATEMENT OF LICENSEE.—Each person or corporation so licensed shall, annually, on or before the fifteenth day of January, transmit to the Secretary of State a verified statement setting forth:

1. The name of the person or corporation licensed.
2. The names of the persons, agents, wardens or keepers of any prison, jail, penitentiary, reformatory or establishment using convict labor, with whom he has done business, and the name and address of the person or corporation to whom he has sold goods, wares and merchandise, and
3. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise and the character thereof.

§ 53. LABELING AND MARKING CONVICT-MADE GOODS.—All goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in which convict labor is employed, shall be branded, labeled or marked as herein provided. The brand, label or mark, used for such purpose, shall contain at the head or top thereof, the words "convict-made," followed by the year when, and the name of the penitentiary, prison, reformatory or other establishment in which the article branded, labeled or marked was made.

Such brands, labels and marks shall be printed in plain English lettering, of the style and size known as great primer Roman condensed capitals. A brand or mark shall be used in all cases where the nature of the article will permit and only where such branding or marking is impossible shall a label be used. Such label shall be in the form of a paper-tag and shall be attached by wire to each article, where the nature of the article will permit, and shall be placed securely upon the box, crate or other covering in which such goods, wares or merchandise are packed, shipped or exposed for sale.

Such brand, mark or label shall be placed upon the most conspicuous part of the finished article and its box, crate or covering.

No convict-made goods, wares or merchandise shall be sold or exposed for sale without such brand, mark or label.

§ 54. DUTIES OF COMMISSIONER OF LABOR STATISTICS RELATIVE TO VIOLATIONS; FINES UPON CONVICTIONS.—The Commis-

sioner of Labor Statistics shall enforce the provisions of this article. If he has reason to believe that any of such provisions are being violated, he shall advise the district attorney of the county wherein such alleged violation has occurred of such fact, giving the information in support of his conclusion. The district attorney shall, at once, institute the proper proceedings to compel compliance with this article and secure conviction for such violations.

Upon the conviction of a person or corporation for a violation of this article, one-half of the fine recovered shall be paid and certified by the district attorney to the Commissioner of Labor Statistics, who shall use such money in investigating and securing information, in regard to violations of this act and in paying the expenses of such conviction.

§ 55. ARTICLES NOT TO APPLY TO GOODS MANUFACTURED FOR THE USE OF THE STATE OR A MUNICIPAL CORPORATION. — Nothing in this article shall apply to or effect the manufacture in State prisons, reformatories and penitentiaries, and furnishing of articles for the use of the offices, departments and institutions of the State or any political division thereof, as provided by chapter four hundred and twenty-nine of the laws of eighteen hundred and ninety-six.

NOTE.— This law is inoperative for the reason that the selling of prison-made goods in the open market is prohibited by the Constitution and section 97 of the general prison law. And Ch. 931, L. 1896, which was superseded by the foregoing, and afterwards repealed, was declared unconstitutional, so far as it required the branding of prison-made goods of other states, by the Court of Appeals in *People vs. Hawkins*, 157 N. Y., p. 1.

State Finance Law, Sections from.

Chapter 413, Laws of 1897.

- Section 35. Indebtedness not to be contracted without appropriations.
36. Specific appropriation not to be used for other purposes.
37. Monthly payments to State Treasurer.

§ 2.—The fiscal year of all offices, asylums, hospitals, charitable and reformatory institutions in this State shall begin with the first day of October and end with the next following thirtieth day of September.

§ 35. INDEBTEDNESS NOT TO BE CONTRACTED WITHOUT APPROPRIATION.—A State officer, employee, board, department or commission shall not contract indebtedness on behalf of the State, nor assume to bind the State, in an amount in excess of money appropriated or otherwise lawfully available. (*Added by Ch. 580, L. 1899.*)

§ 36. SPECIFIC APPROPRIATION NOT TO BE USED FOR OTHER PURPOSES.—Money appropriated for a specific purpose shall not be used for any other purpose; and the Comptroller shall not draw a warrant for the payment of any sum appropriated, unless it clearly appears from the detailed statement presented to him by the person demanding the same as required by this chapter, that the purposes for which such money is demanded are those for which it was appropriated. The Comptroller shall not audit any claim for salary, labor or wages, unless an appropriation applicable thereto has been already made specifying the amount thereof appropriated for such purpose. (*Added by Ch. 580, L. 1899.*)

§ 37. MONTHLY PAYMENTS TO STATE TREASURER.—Every State officer, employee, board, department or commission receiving money for or on behalf of the State from fees, penalties, costs, fines, sales of property, or otherwise, except the health officer of the Port of New York, shall on the fifth day of each month, pay to the State Treasurer all such money received during the preceding month and on the same day file a detailed verified statement of such receipts with the Comptroller, who shall keep an account thereof in his office. This section shall not apply to the manufacturing fund of the State prisons, known as the Capital Fund, nor to the Convict Deposit and

Miscellaneous Earnings Fund, so called, of the State prisons and Eastern New York Reformatory; nor to the proceeds of sales of manufactures or other products of the State hospitals for the insane. This section shall be deemed to supersede any other provision of this chapter or of any other general or special law inconsistent therewith. (*Added by Ch. 580, L. 1899 and as amended by Ch. 715, L. 1899, Ch. 326, L. 1900 and Ch. 457, L. 1901.*)

Sections from the Penal Code.

TITLE VI.

- Section 42. Acting in a public office without having qualified.
48b. Prison officers not to be interested in prison contracts.

§ 42. ACTING IN A PUBLIC OFFICE WITHOUT HAVING QUALIFIED.—A person who executes any of the functions of a public office without having taken and duly filed the required oath of office, or without having executed and duly filed the required security, is guilty of a misdemeanor, as prescribed by law. (*As amended by Ch. 692, L. 1893.*)

§ 48b. PRISON OFFICERS NOT TO BE INTERESTED IN PRISON CONTRACTS.—A superintendent of State prisons, or agent, warden or other officer, keeper or guard, employed at either of the prisons, who

1. Shall be directly or indirectly interested in any contract, purchase or sale, for, by, or on account of such prison; or

2. Accepts a present from a contractor or contractor's agent, directly or indirectly, or employs the labor of a convict or another person employed in such prison on any work for the private benefit of such superintendent, officer, keeper or guard, is guilty of a misdemeanor, except that the agent and warden shall be entitled to employ prisoners for necessary household service. (*Added by Ch. 662, L. 1893.*)

TITLE VIII.

Chapter III.

ESCAPES AND AIDING THEREIN.

- Section 84. Escaping prisoner may be recaptured.
85. Prisoner escaping.
86. Attempt to escape from State prison.
87. Aiding prisoner to escape.
88. Aiding prisoner to escape.
89. Officer suffering escape.
90. Id; forfeits office.
91. Concealing escaped prisoner.
92. Definition of prison.
93. Definition of prisoner.

ESCAPING PRISONER MAY BE RECAPTURED.— § 84. A prisoner, in custody under sentence of imprisonment for any crime,

who escapes from custody, may be recaptured and imprisoned for a term equal to that portion of his original term of imprisonment which remained unexpired upon the day of his escape.

PRISONER ESCAPING.— § 85. A prisoner who, being confined in a prison, or being in lawful custody of an officer or other person, by force or fraud escapes from such prison or custody, is guilty of felony if such custody or confinement is upon a charge, arrest, commitment, or conviction for a felony; and of a misdemeanor if such custody or confinement is upon a charge, arrest, commitment or conviction for a misdemeanor.

ATTEMPT TO ESCAPE FROM STATE PRISON.— § 86. A prisoner confined in a State prison for a term less than for life, who attempts by force or fraud, although unsuccessfully, to escape from such prison, is guilty of felony.

AIDING PRISONER TO ESCAPE.— § 87. A person who, with intent to effect or facilitate the escape of a prisoner, whether the escape is effected or attempted or not, enters a prison, or conveys to a prisoner any information, or sends into a prison any disguise, instrument, weapon, or other thing, is guilty of felony, if the prisoner is held upon a charge, arrest, commitment, or conviction for a felony; and of a misdemeanor, if the prisoner is held upon a charge, arrest, commitment, or conviction for a misdemeanor.

§ 88. **AIDING PRISONER TO ESCAPE.**— A person who aids or assists a prisoner in escaping, or attempting to escape, from the lawful custody of a sheriff, or other officer or person, is guilty of a misdemeanor, if the prisoner is held under arrest, commitment, or conviction for a misdemeanor, or upon a charge thereof; and of a felony if the prisoner is held under an arrest, commitment, or conviction for a felony, or upon a charge thereof.

§ 89. **OFFICER SUFFERING ESCAPE.**— A sheriff, or other officer or person, who allows a prisoner, lawfully in his custody, in any action or proceeding, civil or criminal, or in any prison under his charge or control, to escape or go at large, except as permitted by law, or connives at or assists such escape, or omits an act or duty whereby such escape is occasioned, or contributed to, or assisted, is

1. If he corruptly and willfully allows, connives at, or assists the escape, guilty of a felony;

2. In any other case, is guilty of a misdemeanor.

§ 90. **ID: FORFEITS OFFICE.**— An officer who is convicted of the offense specified in the first subdivision of the last section, forfeits his office, and is forever disqualified, to hold any office, or place of trust, honor or profit, under the Constitution or laws of this State.

§ 61. **CONCEALING ESCAPED PRISONER.**— A person who knowingly or willfully conceals, or harbors for the purpose of con-

cealment, a person who has escaped or is escaping from custody, is guilty of a felony if the prisoner is held upon a charge or conviction of felony, and of a misdemeanor if the person is held upon a charge or conviction of misdemeanor.

§ 92. DEFINITION OF PRISON.—The term, “prison,” as used in this chapter, means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest.

§ 93. DEFINITION OF PRISONER.—The term, “prisoner,” as used in this chapter, means any person held in custody under process of law, or under lawful arrest.

TITLE VIII.

Chapter VII.

Section 116. Neglecting or refusing to execute process.

117. Neglect of public officers.

154. Omission of duty by public officers.

160. Communication with prisoners prohibited.

§ 116. NEGLECTING OR REFUSING TO EXECUTE PROCESS.—An officer who, in violation of a duty imposed upon him by law to receive a person into his official custody, or into a prison under his charge, willfully neglects or refuses so to do, is guilty of a misdemeanor.

§ 117. NEGLECT OF PUBLIC OFFICERS.—A public officer, or person holding a public trust or employment, upon whom any duty is enjoined by law, who willfully neglects to perform the duty, is guilty of a misdemeanor. This and the preceding section do not apply to cases of official acts or omissions the prevention or punishment of which is otherwise specially provided by statute.

§ 154. OMISSION OF DUTY BY PUBLIC OFFICERS.—Where any duty is or shall be enjoined by law upon any public officer, or upon any person holding a public trust or employment, every willfull omission to perform such duty, where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor.

§ 160. COMMUNICATION WITH PRISONERS PROHIBITED.—A person who,

1. Not being authorized by law, visits any State prison, reformatory, penitentiary, county jail or other place for the detention of peronss convicted of crime, or communicates with any prisoner therein without the consent of the agent or warden, superintednent, keeper, sheriff or other person having charge thereof, or without such consent brings into or conveys out of a

State prison, reformatory, penitentiary, county jail or other place for the detention of persons convicted of crime, any letter, information or writing to or from any prisoner; or

2. Conveys in or takes from such prison, reformatory, penitentiary, county jail or other place for the detention of persons convicted of crime, or who personally or through any other person or persons, gives, sells, furnishes or otherwise delivers to any prisoner or prisoners in custody any drug, liquor or any article prohibited by law or by the rules of the superintendent, keeper, sheriff, board of managers or other person, or official having charge or control thereof; is guilty of a misdemeanor. (*As amended by Ch. 333, L. 1903.*)

TITLE XI.

§ 384b. UNLAWFUL DEALING IN CONVICT-MADE GOODS.—A person who

1. Sells or exposes for sale convict-made goods, wares or merchandise, without a license therefor, or having such license does not transmit to the Secretary of State the statement required by article four of the labor law; or

2. Sells, offers for sale, or has in his possession for sale any such convict-made goods, wares or merchandise without the brand, mark or label required by article four of the labor law; or

3. Removes or defaces or in any way alters such brand, mark or label, is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than one thousand nor less than one hundred dollars, or by imprisonment for not less than ten days or by both such fine and imprisonment.

NOTE.—See the note after the chapter on convict-made goods on p. 95.

GENERAL PROVISIONS.

TITLE XVIII.

Section 687a. Punishment—indeterminate sentence.

694. Imprisonment on two or more convictions.

695. Id.

697. Calculating term.

698. Imprisonment of female convict.

703. In county jail or State prison.

704. In State prison.

705. Place to be specified in sentence; removal.

709. Convict protected by law.

PUNISHMENT—INDETERMINATE SENTENCE. — § 687a. A person never before convicted of a crime punishable by imprisonment in a State prison, who is convicted in any court in this

State of a felony, the maximum penalty for which, exclusive of fines, is imprisonment for five years or less, and sentenced to a State prison, shall be sentenced thereto under an indeterminate sentence, the minimum of which shall not be less than one year, or in case a minimum is fixed by law, not less than such minimum, and the maximum of which shall not be more than the longest period fixed by law for which the crime is punishable of which the offender is convicted. The maximum limit of such sentence shall be so fixed as to comply with the provisions of section six hundred and ninety-seven of the Penal Code. In any other case whenever any person, never before convicted of a felony, shall be convicted of a felony, other than murder or arson, the maximum penalty for which, exclusive of fines, exceeds five years' imprisonment in a State prison, the court may either pronounce a definite sentence for a fixed term as provided by law, or may in its discretion impose upon such person a sentence of imprisonment therein for an indeterminate term the minimum of which shall not be less than one year, or in case a minimum is fixed by law, not less than such minimum, and the maximum of which shall not be more than the longest period fixed by law for which the crime is punishable of which the offender is convicted. The maximum limit of such sentence shall be so fixed as to comply with the provisions of section six hundred and ninety-seven of the Penal Code. (*As amended by Ch. 282, L. 1902.*)

§ 694. IMPRISONMENT ON TWO OR MORE CONVICTIONS.—Where a person is convicted of two or more offenses, before sentence has been pronounced upon him for either offense, the imprisonment, to which he is sentenced upon the second or other subsequent conviction, must commence at the termination of the first or other prior term or terms of imprisonment, to which he is sentenced.

§ 695. ID.—Where a person, under sentence for a felony, afterwards commits any other felony, and is thereof convicted and sentenced to another term of imprisonment, the latter term shall not begin until the expiration of all the terms of imprisonment, to which he is already sentenced.

§ 697. CALCULATING TERM.—When a convict is to be sentenced to imprisonment in a State prison or a penitentiary, the court before which the conviction was had must limit the term of the sentence, having reference to the probability of the convict earning a reduction of his term for good behavior, as provided by chapter twenty-one of the laws of eighteen hundred and eighty-six, and assuming that such reduction will be earned, so that the sentence will expire during either of the following months: April, May, June, July, August, September and October.

But the provisions of this section shall not apply in the following cases:

1. Where the sentence is to be for the term of one year or less.
2. Where the term of imprisonment for the crime for which the convict was convicted absolutely fixes a single definite period of time.
3. Where a judgment of conviction has been affirmed upon an appeal, and it becomes necessary for the court to impose the same sentence as that originally imposed. The officers of every prison or penitentiary are hereby expressly prohibited from taking into their custody any convict sentenced in violation of the provisions of this section, and any convicts so illegally sentenced shall be returned by the sheriff of the county where the conviction was had to the court to be resenteded in conformity to the provisions of this section. Provided that if it shall appear to the officers of any prison or penitentiary at the time it is sought to incarcerate a convict therein that the court which has imposed the sentence has adjourned, then it shall be lawful for said officers to receive said convict and hold him in their custody until he can be re-sentenced as herein provided, and the second or resentence shall be deemed to have begun on the date of the convict's reception under his first sentence. The officers of any prison or penitentiary shall, in the case of a convict so illegally sentenced to imprisonment therein, immediately notify the court of their action.

§ 698. IMPRISONMENT OF FEMALE CONVICT.—Any woman over the age of sixteen years, who shall be convicted of a felony in any of the courts of this State, shall, when the sentence imposed is one year or more, be sentenced to imprisonment in the State Prison for Women at Auburn. When the sentence imposed is less than one year, she may be committed to the county jail of the county where convicted, or to a penitentiary, or to the State Prison for Women at Auburn. A woman between the ages of fifteen and thirty, convicted of a felony, who has not theretofore been convicted of a crime punishable by imprisonment in a State prison, may in the discretion of the trial court be sentenced to a house of refuge or reformatory for women, to be there confined under the provisions of law relating to such house of refuge or reformatory. (*As amended by Ch. 114, L. 1900.*)

§ 703. IN COUNTY JAIL OR STATE PRISON.—Where a person is convicted of a crime, for which the punishment inflicted is imprisonment for a term of one year, he may be sentenced to, and the imprisonment may be inflicted by, confinement either in a county jail, or in a penitentiary or State prison. No person shall be sentenced to imprisonment in a State prison for less than one year.

§ 704. IN STATE PRISON.—Where a person is convicted of a crime, for which the punishment inflicted is imprisonment for

a term exceeding one year, or is sentenced to imprisonment for such a term, the imprisonment must be inflicted by confinement at hard labor in a State prison. But this and the two last sections shall not apply to a case where special provision is made by statute as to the punishment for any particular offense or class of offenses or offenders, nor to the cases specified in sections 698, 699, 700 and 701.

§ 705. PLACE TO BE SPECIFIED IN SENTENCE; REMOVAL.— The place of the imprisonment must be specified in the judgment and sentence of the court. But convicts may be removed from one place of confinement to another, in a case, and by the authority designated by statute.

§ 709. CONVICT PROTECTED BY LAW.— A convict sentenced to imprisonment is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if he were not sentenced or convicted.

Sections from the Code of Criminal Procedure.

TITLE X.

Chapter I.

The Death Penalty.

- Section 491. Death warrant, confinement of prisoner thereunder.
492. Time of execution.
493. Judge to send record of conviction to Governor.
494. Governor may consult judges.
495. Governor only can reprieve—exceptions.
496. Procedure when convict becomes insane.
497. Duties of district attorney.
498. Inquisition; execution when suspended.
499. Sheriff to transmit inquisition to Governor; Governor to act thereon.
500. When female convict is pregnant; proceedings to be taken.
501. Inquisition; duty of sheriff.
502. Sheriff to transmit inquisition to Governor; Governor's duty.
503. When day of execution passes other than by reason of insanity or pregnancy.
504. Court to inquire, etc.
505. Death penalty; mode of infliction.
506. Death penalty; where inflicted.
507. Persons present, etc.
508. Certificate of execution.
509. Disability of warden to execute death warrant.

DEATH WARRANT; CONFINEMENT OF PRISONER THEREUNDER.—
§ 491. When a defendant is sentenced to the punishment of death, the judge or judges holding the court at which the conviction takes place, or a majority of them, of whom the judge presiding must be one, must make out, sign and deliver to the sheriff of the county, a warrant stating the conviction and sentence, and appointing the week within which sentence must be executed. Said warrant must be directed to the agent and warden of the State prison of this State designated by law as the place of confinement for convicts sentenced to imprisonment in a State prison in the judicial district wherein such conviction has taken place, commanding such agent and warden to do execution of the sentence upon some day within the week thus

appointed. Within ten days after the issuing of such warrant the said sheriff must deliver the defendant, together with the warrant, to the agent and warden of the State prison therein named. From the time of said delivery to the said agent and warden, until the infliction of the punishment of death upon him, unless he shall be lawfully discharged from such imprisonment, the defendant shall be kept in solitary confinement at said State prison, and no person shall be allowed access to him without an order of the court, except the officers of the prison, his counsel, his physician, a priest or minister of religion, if he shall desire one, and the members of his family. (*As amended by Ch. 489, L. 1888.*)

NOTE—See sections 10-11-12 of Ch. 489, L. 1888 on p. 110. Kemmler vs. Durston, 119 N. Y., p. 575.

TIME OF EXECUTION.— § 492. The week so appointed must begin not less than four weeks and not more than eight weeks after the sentence. The time of the execution within said week shall be left to the discretion of the agent and warden to whom the warrant is directed; but no previous announcement of the day or hour of the execution shall be made, except to the persons who shall be invited or permitted to be present at said execution as hereinafter provided. (*As amended by Ch. 489, L. 1888.*)

NOTE—See sections 10-11-12 of Ch. 489, L. 1888 on p. 110.

JUDGE MUST TRANSMIT CERTAIN PAPERS TO GOVERNOR.— § 493. The judge, presiding at the term at which the conviction took place, must immediately thereupon transmit to the Governor a statement of the conviction and sentence, with the notes of testimony taken upon the trial by him, or the notes, written out, taken by a stenographer or assistant stenographer, attending the court or term pursuant to law.

GOVERNOR MAY CONSULT JUDGES, ETC.— § 494. The Governor is authorized to require the opinion of the judges of the Court of Appeals, justices of the Supreme Court, and the Attorney-General, or of any of them, upon a statement so furnished.

GOVERNOR ONLY TO REPRIEVE, EXCEPT, ETC.— § 495. No judge, court, or officer, other than the Governor, can reprieve or suspend the execution of a defendant sentenced to the punishment of death, except where a sheriff is authorized so to do, in a case and in the manner prescribed in the following sections of this chapter. This section does not apply to a stay of proceedings upon an appeal or writ of error.

PROCEDURE WHEN CONVICT BECOMES INSANE.— § 496. If, after a defendant has been sentenced to the punishment of death, there is reasonable ground to believe that he has become insane, the sheriff of the county in which the conviction took place, with the concurrence of a justice of the Supreme Court, or the county judge of the county, who may make an order to

that effect, must impanel a jury of twelve persons of that county, qualified to serve as jurors in a court of record, to examine the question of the sanity of the defendant. The sheriff must give at least seven days notice of the time and place of the meeting of the jury to the district attorney of the county. Section 108 of the Code of Civil Procedure regulates the impaneling of such a jury, and the proceedings upon the inquisition so far as it is applicable.

DUTIES OF DISTRICT ATTORNEY.— § 497. The district attorney must attend the inquiry. He may produce witnesses before the jury; for which purpose he has the same power to issue subpœnas, as for witnesses to attend a grand jury, and disobedience thereto may be punished by the Supreme Court, at any term thereof, in the same manner as disobedience to process issued by that court. (*As amended by Ch. 880, L. 1895.*)

INQUISITION; EXECUTION, WHEN SUSPENDED.— § 498. The inquisition of the jury must be signed by the jurors and the sheriff. If it be found by the inquisition that the defendant is insane, the sheriff must suspend execution of the warrant directing the defendant's death, until he receives a warrant from the Governor, directing that the defendant be executed.

SHERIFF TO TRANSMIT INQUISITION TO GOVERNOR—GOVERNOR TO ACT THEREON.— § 499. The sheriff must immediately transmit the inquisition to the Governor; who, as soon as he is satisfied of the sanity of the defendant, or of his restoration to sanity, must issue his warrant, appointing a time and place for the execution of the latter, pursuant to his sentence, unless the sentence is commuted or the convict pardoned, and may in the meantime give directions for the disposition and custody of the defendant.

WHEN FEMALE CONVICT IS PREGNANT; PROCEEDINGS TO BE TAKEN.— § 500. If there is reasonable ground to believe that a female defendant, sentenced to the punishment of death, is pregnant, the sheriff of the county where the conviction took place must impanel a jury of six physicians to inquire into her pregnancy. Sections 497 and 498 of this code apply to the proceedings upon the inquisition, except that the sheriff may, in his discretion, require one or more of the physicians composing the jury to attend from the adjoining county. A physician, acting as a juror upon such an inquisition, need not be qualified to serve as a juror in a court of record.

INQUISITION; DUTY OF SHERIFF.— § 501. The inquisition of the jury must be signed by the jurors and the sheriff. If it is found by the inquisition that the defendant is quick with child, the sheriff must suspend the execution of the warrant directing her execution, until he receives a warrant from the Governor, directing that the convict be executed.

SHERIFF TO TRANSMIT INQUISITION TO GOVERNOR; GOVERNOR'S DUTY. — § 502. The sheriff must immediately transmit the inquisition to the Governor, who, as soon as he is satisfied that the defendant is no longer quick with child, may issue his warrant, appointing a time and place for her execution, pursuant to her sentence, or may commute her punishment to imprisonment for life.

WHEN DAY OF EXECUTION PASSES OTHER THAN BY REASON OF INSANITY OR PREGNANCY. — § 503. Whenever, for any reason other than insanity or pregnancy, a defendant sentenced to the punishment of death has not been executed pursuant to the sentence, at the time specified thereby, and the sentence or judgment inflicting the punishment stands in full force, the Court of Appeals or a judge thereof or the Supreme Court or a justice thereof, upon application by the Attorney-General or of the district attorney of the county where the conviction was had, must make an order directed to the agent and warden or other officer in whose custody said defendant may be, commanding him to bring the convict before the Court of Appeals or a term of the Appellate Division of the Supreme Court in the department, or a term of the Supreme Court in the county where the conviction was had. If the defendant be at large, a warrant may be issued by the Court of Appeals or a judge thereof, or by the Supreme Court or a justice thereof, directing any sheriff or other officer to bring the defendant before the Court of Appeals or a term of the Appellate Division of the Supreme Court thereof, or before a term of the Supreme Court in that county. (*As amended by Ch. 880, L. 1895.*)

COURT TO INQUIRE, ETC. — § 504. Upon the defendant being brought before the court, it must inquire into the circumstances, and if no legal reason exists against the execution of the sentence, it must issue its warrant to the agent and warden of the State prison mentioned in the original warrant and sentence, under the hands of the judge or judges, or a majority of them, of whom the judge presiding must be one, commanding the said agent and warden to do execution of the sentence during the week appointed therein. The warrant must be obeyed by the agent and warden accordingly. The time of the execution within said week shall be left to the discretion of the agent and warden, to whom the warrant is directed; but no previous announcement of the day or hour of the execution shall be made, except to the persons who shall be invited or permitted to be present at said execution as hereinafter provided. (*As amended by Ch. 489, L. 1888.*)

NOTE. — See sections 10-11-12, of Ch. 489, L. 1888 on p. 110.

DEATH PENALTY—MODE OF INFLICTION. — § 505. The punishment of death must, in every case, be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such

current must be continued until such convict is dead. (*As amended by Ch. 489, L. 1888.*)

NOTE.—See sections 10-11-12, of Ch. 489, L. 1888 on p. 110.

DEATH PENALTY, WHERE INFLICTED. — § 506. The punishment of death must be inflicted within the walls of the State prison designated in the warrant, or within the yard or enclosure adjoining thereto. (*As amended by Ch. 489, L. 1888.*)

NOTE.—See sections 10-11-12, of Ch. 489, L. 1888 on p. 110.

PERSONS PRESENT. — § 507. It is the duty of the agent and warden to be present at the execution, and to invite the presence, by at least three days previous notice, of a justice of the Supreme Court, the district attorney, and the sheriff of the county where the conviction was had, together with two physicians and twelve reputable citizens of full age, to be selected by said agent and warden. Such agent and warden must, at the request of the criminal, permit such ministers of the Gospel, priests or clergymen of any religious denomination, not exceeding two, to be present at the execution; and in addition to the persons designated above, he shall also appoint seven assistants or deputy sheriffs who shall attend the execution. He shall permit no other person to be present at such execution except those designated in this section. Immediately after the execution a post-mortem examination of the body of the convict shall be made by the physicians present at the execution, and their report in writing stating the nature of the examination, so made by them, shall be annexed to the certificate hereinafter mentioned and filed therewith. After such post-mortem examination, the body, unless claimed by some relative or relatives of the person so executed, shall be interred in the grave-yard or cemetery attached to the prison, with a sufficient quantity of quick-lime to consume such body without delay; and no religious or other services shall be held over the remains after such execution, except within the walls of the prison where said execution took place, and only in the presence of the officers of said prison, the person conducting said services, and the immediate family and relatives of said deceased prisoner. Any person who shall violate or omit to comply with any provision of this section shall be guilty of a misdemeanor. (*As amended by Ch. 16, L. 1892.*)

§ 508. CERTIFICATE OF EXECUTION. — The agent and warden attending the execution must prepare and sign a certificate, setting forth the time and place thereof, and that the convict was then and there executed, in conformity to the sentence of the court and the provisions of this code, and must procure such certificate to be signed by all the persons present and witnessing the execution. He must cause the certificate, together with the certificate of the post-mortem examination mentioned in the preceding section, and annexed thereto, to be filed within ten days after the execution, in the office of the clerk of the county

in which the conviction was had. (*As amended by Ch. 489, L. 1888.*)

NOTE— See sections 10-11-12 of Ch. 489, L. 1888, on p. 110.

§ 509. **DISABILITY OF WARDEN TO EXECUTE DEATH WARRANT.** In case of the disability, from illness or other sufficient cause, of the agent and warden to whom the death warrant is directed, to be present and execute said warrant, it shall be the duty of the principal keeper of said prison, or such officer of said prison as may be designated by the Superintendent of State Prisons, to execute the said warrant, and to perform all other duties by this act imposed upon said agent and warden. (*As amended by Ch. 489, L. 1888.*)

NOTE— Ch. 489, L. 1888, which amended several sections of the foregoing, contained also the following three sections.

§ 10. Nothing contained in any provision of this act applies to a crime committed at any time before the day when this act takes effect. Such crime must be punished according to the provisions of law existing when it is committed, in the same manner as if this act had not been passed; and the provisions of law for the infliction of the penalty of death upon convicted criminals, in existence on the day prior to the passage of this act, are continued in existence and applicable to all crimes punishable by death, which have been or may be committed before the time when this act takes effect. A crime punishable by death committed after the beginning of the day when this act takes effect, must be punished according to the provisions of this act, and not otherwise.

§ 11. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 12. This act shall take effect on the first day of January, one thousand eight hundred and eighty-nine, and shall apply to all convictions for crimes punishable by death, committed on or after that date.

TITLE XII.

Article VIII, Chapter XIII.

Section 692. Power of Governor to grant reprieves, commutations and pardons.

694. Governor to communicate annually to Legislature, etc.

695. Report of case, how and from whom required.

§ 692. **POWER OF GOVERNOR TO GRANT REPRIEVES, COMMUTATIONS AND PARDONS.**—The Governor has power to grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to the regulations provided in this chapter.

§ 694. **GOVERNOR TO COMMUNICATE ANNUALLY TO LEGISLATURE, ETC.**—He must annually communicate to the Legislature, each case of reprieve, commutation or pardon; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

§ 695. REPORT OF CASE, HOW AND FROM WHOM REQUIRED. — When application is made to the Governor for a pardon, commutation or reprieve, it shall be the duty of the presiding judge of the court before which the conviction was had, and the district attorney by whom the criminal action was prosecuted, or the district attorney of the county where the conviction was had, holding office at the time of such application, to supply the Governor, upon his request therefor, and without delay, with a statement of the facts proved on the trial; or, if a trial was not had, the facts appearing before the grand jury which found the indictment, and of any other facts having reference to the propriety of granting or refusing such pardon, commutation or reprieve.

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